

# Planning Commission Recommendations to the Unified Development Ordinance

August 14, 2012

The following document is a compilation of changes to the 2012 public hearing draft of the Unified Development Ordinance made by the Planning Commission. This document represents the final recommendations to the City Council. A majority of the recommendations include reference to an existing section, page number and specific amendment or introduces a new reference. Bolded words represent new language. Strike throughs represent language to be removed.

Section 1.4.1.D on page 1-7 should be amended to read:

“A building constructed to accommodate three or more dwelling units that are vertically ~~and~~ **or** horizontally integrated. A common kitchen is allowed. A limited set of nonresidential uses may be allowed in ground floor corner units in mixed use districts.”

Planning Commission action: Approved 13 March 2012

Section 1.5.4.C on page 1-11 should be amended to read:

“A multiple street frontage lot must designate at least one primary street. A lot may have more than one primary street in which case, the Planning and Development Officer will determine which street (**s**) is the primary street based on:”

Planning Commission action: Approved 13 March 2012

Section 1.5.4.D.1.a on page 1-11 should be amended to read:

“Porches, stoops, balconies, galleries, awnings **and steps** as set forth in Sec. 1.5.11.”

Planning Commission action: Approved 13 March 2012

Section 1.5.7.A.1 on page 1-13 should be amended to read:

“Building height is measured from the average grade in both number of stories and feet to the top of the highest point of a pitched or flat roof, not including a

maximum ~~four foot~~ parapet wall encroachment. **The maximum height encroachment for a parapet wall is four feet for a three story building, with one additional foot of parapet wall allowed for each additional story thereafter, but in no case shall a parapet encroachment be taller than 12'.**

Planning Commission action: Approved 13 March 2012

Section 1.4.1.F on page 1-7 should be amended to read:

**"A multi-story building constructed to accommodate retail on the ground floor ~~retail and upper-story residential or office~~ uses in addition to retail on the upper floors.**

Planning Commission action: Approved 20 March 2012

Section 1.4.1.G on page 1-7 should be amended to read:

**"A building that exclusively accommodates civic uses, as well as rest homes, day care centers, life care, congregate care, special care facilities and accessory uses."**

Planning Commission action: Approved 20 March 2012

Section 1.5.3.B.4. on page 1-10 should be amended to read:

Required outdoor amenity area cannot be ~~built~~, parked or driven upon, except for emergency access and permitted temporary events.

Section 1.5.3.B.6. should be added, which reads: (6 is added to the current list)

**"6. Required tree conservation may be used to meet the 5% amenity area if located on the same lot as the building."**

Planning Commission action: Approved 20 March 2012

Section 1.5.9 A. should be amended to read:

**"The transparency requirements are intended to lend visual interest to street facing building facades ~~by providing views into and out of the building~~ for both pedestrians and building occupants and minimizing blank wall areas." This is not applicable to residential uses.**

Planning Commission action: Approved 20 March 2012

Section 1.5.11 A. on page 1-17 should be amended to read:

“The standards in this section are intended to ensure that when a building element(s) is provided **inside the setback**, they are sufficient size to be functional and are not too close to adjacent property lines. **“These elements are not regulated outside the setback line.”**

Section 1.5.11 B. 2 on page 1-17 should be amended to read:

“A porch must be contiguous with a width of not less than **12'**. ~~33% of the building façade from which it projects.~~

Planning Commission action: Approved 20 March 2012

Sections 1.5.6.D (Build-to), 1.5.9.D (Transparency), 1.5.10 (Blank Wall Area), 1.5.11.D (Building Elements) and 1.5.12.D (Residential Garage Options) should be amended to read:

Replace the word “complies” with the word “conforms” in the findings for sections 1.5.6.D, 1.5.9.D, 1.5.10.D, 1.5.11.D and 1.5.12.D.

Planning Commission action: Approved 20 March 2012 –

Section 1.1.8 on page 1-2 and 1-3 should be amended to read:

**“If for any reason any specific condition or regulation of a conditional use zoning district ordinance is found to be invalid, any section, subsection, sentence, or phrase of this UDO is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason the remaining portions of this UDO shall not be affected. If any court of competent jurisdiction invalidates the application of any provision of this UDO, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment. It is the intention of this section that such invalidity shall not affect other provisions or applications of the conditional use zoning district ordinance. However, when any property owner or their tenant or agents challenge any specific condition or regulation of a conditional use zoning district ordinance, then the entire zoning district ordinance shall return to its prior zoning classification upon a finding of invalidity of any specific condition or regulation. See Section 14-1004.”**

Planning Commission action: Approved 20 March 2012

Section 1.1.11 on page 1-5 (new) shall be added to read:

“The following regulations apply to construction and installations taking place after the application of this UDO:

1. Build-to regulations in 1.5.6;
2. Transparency regulations in 1.5.9;
3. Blank wall regulations in 1.5.10”

Planning Commission action: Approved 20 March 2012

Section 1.5.7.A.3 on page 1-13 should be amended to read:

“Where a lot slopes downward from the ~~property line front~~ ~~property line~~, one story that is additional to the specified maximum number of stories may be built on the lower, rear portion of the lot.

Planning Commission action: Approved 20 March 2012

Section 1.5.8.B.1 on page 1-15 should be amended to read:

“An entrance **installed after the application of this UDO** providing both ingress and egress, operable to residents or customers at all times, is required to meet the street facing entrance requirements. Additional entrances from another street, pedestrian area or internal parking area are permitted.”

Section 1.5.8.C.5 on page 1-15 should be amended to read:

“The pedestrian route from the street **and bus stops** to the entrance is safe, convenient and direct.”

Planning Commission action: Approved 20 March 2012

Section 1.5.11.G on page 1-18 should be amended to read:

“A building element may encroach into the right-of-way, provided a license for the use of the right-of-way is obtained from the City, **which is terminable at will by the City.**”

Planning Commission action: Approved 20 March 2012

Section 2.2.1.B2 on page 2-4 should be should be amended to read:

The principal building setbacks for a detached house should be decreased to **15** feet in the R-1, R-2 and R-4 districts.

Planning Commission action: Approved 20 March 2012

Sections 2.2.1 on page 2-4 should be amended to read:

(Detached House), 2.2.2 (Attached House), 2.2.3 (Townhouse), and 2.2.4 (Apartment) all contain regulations for a two-foot finished floor elevation. Each building type chart contains a standard for a building within 20 feet of the property line, and a standard for a building located more than 20 feet from the property line. The row that describes a building located more than 20 feet from the property line should be altered to read **N/A**.

Planning Commission action: Approved 20 March 2012

Section 2.2.3.D on page 2-6 should be amended to include a cross reference to Section 8.4.4.D.

Planning Commission action: Approved 27 March 2012

Section 2.2.3.E1 and section 2.2.4.D1 on pages 2-6 and 2-7 should be amended. The build-to distance should be increased to 30 feet.

Planning Commission action: Approved 27 March 2012

Section 2.3.8.C.1 on page 2-19 should be amended to read:

"The minimum width for any required open space is 50 feet. Exceptions may be granted for items such as trail easements, linear parks and **32 foot wide Tree Conservation Areas.**"

Planning Commission action: Approved 3 April 2012

Section 2.3.8.G.3 on page 2-20 should be amended to read:

"If the homeowner's association is dissolved, the open space shall first be offered to the City. ~~may be offered to another entity who shall be responsible for the maintenance and upkeep of the open space. If no other offer is~~

**accepted, the open space shall be offered to the City** and if accepted, deeded to the City.

Planning Commission action: Approved 3 April 2012

Section 2.3.8.A on page 2-19 should be amended to read:

"Applicants that choose to use the conservation standards must set aside at least 40% of the total project area as common open space. The amount of required common open space is calculated as a percentage of the ~~gross~~ **net** site area."

Planning Commission action: Approved 3 April 2012

Section 2.3.8.B.1 on page 2-19 should be amended to exclude "floodprone areas" from the primary open space category. The term "Floodway areas" should be added in its place. A new subsection "H" should be added to section 2.3.8.B.2 that includes "flood fringe areas".

Planning Commission action: Approved 3 April 2012

Section 2.4.1.F4 on page 2-23 should be amended.

The rear yard setback for cottage courts should be increased to 20 feet.

Planning Commission action: Approved 3 April 2012

Section 3.3.3D1 should be amended.

The maximum floor plate for floors above the 12<sup>th</sup> story should be increased to 25,000 square feet.

Planning Commission action: Approved 10 April 2012

Section 3.5.5.C on page 3-26 should be amended to read:

**"The rear façade of the building that faces the residential property as described on Section 3.5.1.A is subject to the Blank Wall Area provisions stated in section 1.5.10. The blank wall area provisions are not subject to an Administrative Alternate." Any portion of a rear wall plane cannot exceed 50 feet in length unless the wall is offset a minimum of five feet for a minimum distance of 15 feet."**

Planning Commission action: Approved 17 April 2012

Section 3.1.1.F on page 3-2 should be amended to read:

“DX- is intended to provide for intense mixed use development of the City’s ~~urban core downtown~~ area.”

Planning Commission action: Approved 17 April 2012

### Section 3.2.3

Finished floor elevation needs to specify that non-residential uses in the townhouse and apartment building types do not need to meet the 2' Finished Floor Elevation (FFE)

Commission action: Approved 17 April 2012

### Section 3.3.2

This height chart on page 3-12 contains the requirements for all buildings with a designated height. Line B3 and B4 propose the minimum percentage and depth for buildings with a minimum required height. The column that provides standards for a five story building should be revised. All figures contained within the column should be replaced with “n/a”.

Planning Commission action: Approved 17 April 2012

### Section 3.3.3.B.2 on page

In subsection B2, replace the word “~~complies~~” with “**conforms**”. The Planning Commission has recommended this change elsewhere in the document for the administrative alternates.

Section 3.3.3.B.5 on page 3-13 should be amended to read:

“The building contains ~~superior~~ architectural treatments for delineating the base, middle and top of the building.”

Planning Commission action: Approved 17 April 2012

Section 3.4.1 on page 3-14 should be amended to read:

~~"Frontages place additional limitations beyond different requirements from the base dimensional standards."~~

Additionally, at the end of subsections A, B, C and D, add the words "**right-of-way**".

Planning Commission action: Approved 17 April 2012

#### Section 3.4

In the "Pedestrian Access" section, add the word "primary" to the beginning of section F1. This should be a global insertion for section 3.4.4 (Detached), 3.4.5 (Parking Limited), 3.4.6 (Green), 3.4.7 (Urban Limited), 3.4.8 (Urban General) and 3.4.9 (Shopfront).

Planning Commission action: Approved 17 April 2012

#### Section 3.4.6

The Green frontage contains specific language related to landscaping in subsection F. This language is similar in nature and intent to the protective yard encroachments listed for the Parkway frontage on page 3-16 (subsection F). Staff suggests that Section 3.4.6.F be modified to read:

"Landscape Yard Encroachments  
F1: Driveways  
F2: Ground Signs  
F3: Pedestrian Access ways"

Planning Commission action: Approved 17 April 2012

#### Section 3.5.1.B on page 3-23 should be amended to read:

"Zone B does not apply to sites 50 feet or less in depth. In such cases, Zone C starts **immediately adjacent to the Zone A protective yard.**" ~~at the inside edge of the Zone A protective yard (edge furthest from the district boundary line).~~

Planning Commission action: Approved 17 April 2012

#### Section 4.1.1.C on page 4-2 should be amended to read:

"The IH District is intended to accommodate high-impact manufacturing, industrial or other uses, including extractive and waste related uses, ~~that by their nature create a nuisance, and which are not properly associated with or are~~ compatible with nearby residential, mixed use or special districts."

Planning Commission action: Approved 24 April 2012

Section 4.5.3.E on page 4-8 should be amended to read:

"A detached accessory structure, including but not limited to storage shed, storage tank, greenhouse, ~~horse stall~~ or gazebo may be located within 10 feet of the manufactured home it is an accessory to but may not exceed 100 square feet in size."

Planning Commission action: Approved 24 April 2012

### Chapter 12 – Definitions

"Courtyard" should be added to chapter 12: definitions. The definition would read:

"An area of open space, either landscaped, hardscaped or both surrounded by structure(s). Vehicular surface area and parking are not permitted within a courtyard.

Planning Commission action: Approved 1 May 2012

Section 4.2.2.D on page 4-3 should be amended to read:

D. Allowed Building Elements
<b>Porch   stoop   none</b>
<b>Patio</b>
<b>Balcony</b>
<b>Gallery</b>
<b>Awning</b>
See sec. 1.5.11 for specific building element requirements

Planning Commission action: Approved 1 May 2012

Section 4.4.1.B4 on page 4-6 should be amended to read:

B. Building/Structure Setbacks	
B1 From primary street (min)	50'
B2 From side street (min)	50'
B3 From side lot line (min)	0'

B4 Sum of side <b>interior</b> setbacks (min)	40'
B5 From rear lot line (min)	0'
B6 Sum of rear and primary street setbacks (min)	70'

Planning Commission action: Approved 1 May 2012

Section 4.5.1.A on page 4-7 should be amended to read:

“A manufactured home development must be at least 10 acres in size and be devoted to **one or more** of the following uses:”

Planning Commission action: Approved 1 May 2012

Section 4.5.2.B and C on page 4-7 should be amended to read:

**B. Streets, Sidewalks and Protective Yards**

1. All manufactured home spaces and lots must front on a street meeting the requirements of Article 8.4 **or Article 8.5**.
2. Sidewalks must provide pedestrian access within the development served and connect with public sidewalks, public streets and greenway access points.
3. A Type B1 or B2 transitional protective yard (See Sec. 7.2.2.A) must be established along all **shared perimeter** property lines.
4. A Type C1 or C2 street protective yard (see Sec. 7.2.2.B) must be established along all property lines abutting a public right-of-way.

**C. Open Space Standards**

**1. Minimum Acreage Required**

a. The required minimum outdoor open space provided for a manufactured home development shall be the greater of either:

- i. 10% of the land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way; or
- ii. 435.6 square feet per unit.

b. Required minimum open space may be conveyed to the government, **and if accepted**, without reimbursement as part of a greenway easement.

- c. No off-street parking, drives or buildings shall be located in the open space, except when required to serve recreation facilities **located within the open space**.

**(See Sec. 6.7.3.I)**

Planning Commission action: Approved 1 May 2012

Section 4.5.2.E on page 4-8 should be amended to read:

**"E. Clearing of Drainage Ways**

During the construction, preparation, arrangement and installation of improvements and facilities in a manufactured home development, the stream bed of each stream, creek or backwash channel **located within contiguous to** the manufactured home development shall be maintained in an unobstructed state and the channel and banks of the stream shall be kept free of all debris, logs, timber, junk, and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or dams for water impoundments shall not be construed as obstructions in the stream."

Planning Commission action: Approved 1 May 2012

Section 4.5.3 on pages 4-8 and 4-9 should be amended to read, beginning with subsection C2 to read:

**"2. Other Buildings and Uses**

Buildings and uses located in a manufactured home development, other than manufactured homes, shall not locate within 30 feet of a manufactured home or 20 feet of a street right-of-way, **or within 5 feet of a side or rear property line.**"

Subsection E should be modified on page 4-9 that reads:

**"E. Accessory Structures**

1. A detached accessory structure, including but not limited to storage shed, storage tank, greenhouse, horse stall, or gazebo, may be located **within no closer than** 10 feet of the manufactured home **located on the same lot** it is an accessory ~~and not~~ nor exceed 100 square feet in size.
  
4. Garages may not exceed 300 square feet in size and may not be located within 20 feet of **any another** manufactured home or 10 feet of an open

structure associated with another manufactured home. Garage and carport placement must comply with the standards of Sec. 1.5.12.

**6. The allowed building elements for a manufactured home are a porch, stoop, or gallery in accordance with section 1.5.11.**

Planning Commission action: Approved 1 May 2012

Section 4.7.4.A. on page 4-13 should be amended to read:

“General Layout Map delineating the boundaries of all base district, including height, **overlay districts** and frontage designation (if any).”

Section 4.7.4.B.5 on page 4-14 should be amended to read:

“A general description of how the PD district ~~complies~~ **conforms** with the Comprehensive Plan.”

Planning Commission action: Approved 1 May 2012

Section 4.7.5 on page 4-14 should be amended to read:

“Bicycle circulation is accommodated on streets and on dedicated bicycle paths, greenways or trails **w/ adequate bicycle parking facilities being provided at appropriate locations.**”

Planning Commission action: Approved 1 May 2012

Section 1.5.3.B on page 1-10 should be amended to read:

B. Outdoor Amenity Area

1. Where outdoor amenity area is required in **Chapters 2 and 3**, it must be provided on-site and must be available for use by or as an amenity for the occupants, invitees and guests of the development.
2. Required outdoor amenity area may be met in one contiguous open area or in multiple open areas on the lot; however, to receive credit, the area must be at least 10 feet in width and length.
3. Required outdoor amenity area may be located at or above grade.
4. Required outdoor amenity area cannot be ~~built~~, parked or driven upon, except for emergency access and permitted temporary events.
5. Required outdoor amenity area may be roofed but cannot be enclosed.

**6. Required tree conservation may be used to meet the 5% amenity area if located on the same lot as the principal building/use."**

Commission action: Approved 1 May 2012

Section 3.2 amendment

Certain building types located in Section 3.2 on pages 3-4 through 3-7 should be modified to remove the ground story height and upper story height regulations. The ground story and upper story "Floor Heights" subsection in the following building types should be removed: Detached House (sec. 3.2.1), Attached House (3.2.2), Townhouse (3.2.3) and Apartment (3.2.4).

Planning Commission action: Approved 1 May 2012

Section 2.2.3 amendment

The minimum lot area in section 2.2.3.B1 should be removed. The lot size should read "n/a".

B. Lot Dimensions	
B1 Area (min)	<b>N/A 1,200 sf</b>
B2 Width (min)	16'

Planning Commission action: Approved 1 May 2012

Section 2.4.4 (New Section) should be added to address required parking for accessory dwelling units.

**"Sec. 2.4.4. Required Parking**

**One parking space is required for a backyard cottage or accessory apartment. If the primary dwelling does not meet the minimum number of required parking spaces as specified in section 7.1.2, additional parking is only required for the additional unit added to the premises. Additional parking is not required for the primary dwelling in this instance."**

Planning Commission action: Approved 1 May 2012

New Section 2.3 (all subsequent sections to be renumbered)- Compact Development Option

A new section should be added to the residential development types called Compact Development.

### 2.3.1 General Requirements

	R-1	R-2	R-4	R-6	R-10
<b>A. Site</b>					
A1 Density (max)	1 u/a	2 u/a	4 u/a	6 u/a	10 u/a
A2 Gross Site Area (min)	10 ac.	10 ac.	8 ac.	Greater than 5 ac.	Greater than 5 ac.
<b>B. Open Space</b>					
B1 Open Space Required (min)	20%	20%	20%	20%	20%
B2 Width of Open Space (min)	50'	50'	50'	50'	50'
<b>C. Transitional Protective Yard</b>					
C1 Site Boundary (min)	Type B1 or B2 Transitional Protective Yard (see section 7.2.2.A) or perimeter lots must meet the dimensional standards of Article 2.2 of the district where the property is located				
<b>D. Residential Unit Types (max)</b>					
Detached House	100%	100%	100%	100%	100%
Attached House	n/a	n/a	n/a	100%	100%
Townhouse	n/a	n/a	n/a	n/a	100%
Apartment	n/a	n/a	n/a	n/a	100%

The minimum lot sizes have been reduced from the Conventional Option, but are greater than the Conservation Option. The setbacks, height, ground floor elevation and allowed building elements for primary and accessory structures are similar to the other development options.

### 2.3.2 Detached House

	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	30,000	15,000	7,500	5,000	4,000
A2 Width – interior lot (min)	100'	80'	65'	50'	45'
A2 Width – corner lot (min)	100'	80'	80'	65'	60'
A3 Depth (min)	100'	100'	100'	80'	60'
A4 Density (max)	1 u/a	2 u/a	4 u/a	6 u/a	10 u/a
<b>B. Principal Building Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'

B3 From side lot line (min)	10'	10'	10'	5'	5'
B4 Sum of side setbacks (min)	15'	15'	15'	15'	10'
B5 From rear lot line (min)	30'	30'	30'	20'	20'
<b>C. Accessory Building Setbacks</b>					
C1 From primary street (min)	50'	50'	50'	50'	50'
C2 From side street (min)	20'	20'	20'	20'	20'
C3 From side lot line (min)	10'	5'	5'	5'	5'
C4 From rear lot line (min)	30'	30'	30'	20'	20'
C4 From alley, garage only (min)	n/a	n/a	4' or 20' min	4' or 20' min	4' or 20' min
<b>D. Height</b>					
D1 Principal Building (max)	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories
D2 Accessory Building (max)	25'	25'	25'	25'	25'
<b>E. Ground Floor Elevation</b>					
E1 20' or less from front property line (min)	2'	2'	2'	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a	n/a	n/a	n/a
<b>F. Allowed Building Elements</b>					
Porch, Stoop					
Balcony					

*See Sec. 1.5.11 for specific building element requirements*

*Sec. 2.2.7 Residential infill regulations for additional building setback and building height requirements may apply*

### 2.3.3 Attached House

	R-6	R-10
<b>A. Lot Dimensions</b>		
A1 Area (min)	7,500	6,000
A2 Width – interior lot (min)	60'	50'
A2 Width – corner lot (min)	80'	65'
A3 Depth (min)	80'	60'
A4 Density (max)	6 u/a	10 u/a
<b>B. Principal Building Setbacks</b>		
B1 From primary street (min)	10'	10'
B2 From side street (min)	10'	10'
B3 From side lot line (min)	5'	5'
B4 Sum of side setbacks (min)	15'	10'

B5 From rear lot line (min)	20'	20'
<b>C. Accessory Structure Setbacks</b>		
C1 From primary street (min)	50'	50'
C2 From side street (min)	20'	20'
C3 From side lot line (min)	5'	5'
C4 From rear lot line (min)	20'	20'
C4 From alley, garage only (min)	4' or 20' min	4' or 20' min
<b>D. Height</b>		
D1 Principal Building (max)	40'/ 3 stories	40'/ 3 stories
D2 Accessory Building (max)	25'	25'
<b>E. Ground Floor Elevation</b>		
E1 20' or less from front property line (min)	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a
<b>F. Allowed Building Elements</b>		
Porch, Stoop		
Balcony		

*See Sec. 1.5.11 for specific building element requirements*

*Sec. 2.2.7 Residential infill regulations for additional building setback and building height requirements may apply*

### 2.3.4 Townhouse

	R-10
<b>A. Site Dimensions</b>	
A1 Area (min)	3,300
A2 Width (min)	44'
A3 Outdoor amenity area	5%
A4 Density (max)	10 u/a
<b>B. Lot Dimensions</b>	
B1 Area (min)	n/a
B2 Width (min)	16'
<b>C. Building/Structure Setbacks</b>	
C1 From primary street (min)	10'
C2 From side street (min)	10'
C3 From side lot line (min)	0' or 6'
C4 From rear lot line (min)	20'
C5 From alley	4' or 20' min
<b>D. Parking Setbacks</b>	

D1 From primary street (min)	20'
D2 From side street (min)	10'
D3 From side lot line (min)	0' or 3'
D4 From rear lot line (min)	3'
D4 From alley, garage only (min)	4' min
<b>E. Build-to (Site)</b>	
E1 Primary Street build-to (min/max)	10'/30'
E2 Building width in primary build-to	70%
<b>F. Height</b>	
F1 Principal building (max)	45'/3 stories
F2 Accessory Structure (max)	25'
<b>G. Ground Floor Elevation</b>	
G1 Within build-to (min)	2'
G1 Outside of build-to (min)	n/a
<b>H. Pedestrian Access</b>	
H1 Street facing entrance required for units fronting the primary street	yes
<b>I. Allowed Building Elements</b>	
Porch, stoop	
Balcony	

*See Sec. 1.5.11 for specific building element requirements*

*Sec. 2.2.7 Residential infill regulations for additional building setback and building height requirements may apply*

### 2.3.5 Apartment

	<b>R-10</b>
<b>A. Lot Dimensions</b>	
A1 Area (min)	15,000
A2 Width (min)	100'
A3 Outdoor amenity area	5%
A4 Density (max)	10 u/a
<b>B. Building/Structure Setbacks</b>	
B1 From primary street (min)	10'
B2 From side street (min)	10'
B3 From side lot line (min)	0' or 6'
B4 From rear lot line (min)	20'
B5 From alley	4' or 20' min
<b>C. Parking Setbacks</b>	
C1 From primary street (min)	10'
C2 From side street (min)	10'

C3 From side lot line (min)	0' or 3'
C4 From rear lot line (min)	3'
C4 From alley, garage only (min)	4' min
<b>D. Build-to (Site)</b>	
D1 Primary Street build-to (min/max)	10'/20'
D2 Building width in primary build-to	70%
D3 Side street build-to (min/max)	10'/20'
D4 Building width in side build-to (min)	35%
<b>E. Height</b>	
E1 Principal building (max)	45'/3 stories
E2 Accessory Structure (max)	25'
<b>G. Ground Floor Elevation</b>	
G1 Within build-to (min)	2'
G1 Outside of build-to (min)	n/a
<b>H. Pedestrian Access</b>	
H1 Street facing entrance required for units fronting the primary street	yes
<b>I. Allowed Building Elements</b>	
Porch, stoop	
Balcony	

*See Sec. 1.5.11 for specific building element requirements*

*Sec. 2.2.7 Residential infill regulations for additional building setback and building height requirements may apply*

### 2.3.6 Civic Building

	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	30,000	15,000	7,500	5,000	4,000
A2 Width (min)	100'	80'	65'	50'	45'
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'
B3 From side lot line (min)	15'	10'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	30'	20'	20'
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	20'	20'	20'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	10'	6'	6'
<b>D. Height</b>					

D1 Principal building (max)	40'/3 stories				
D2 Accessory structure (max)	25'	25'	25'	25'	25'
<b>E. Allowed Building Elements</b>					
Porch, Stoop					
Balcony					
Gallery, awning					

*See Sec. 1.5.11 for specific building element requirements*

*Sec. 2.2.7 Residential infill regulations for additional building setback and building height requirements may apply*

### 2.3.7 Open Lot

	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	30,000	15,000	7,500	5,000	4,000
A2 Width (min)	100'	80'	65'	50'	45'
A3 Building coverage (max)	10%	15%	17%	20%	22%
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'
B3 From side lot line (min)	10'	10'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	30'	20'	20'
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	10'	10'	10'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	10'	7'	5'
<b>D. Height</b>					
D1 Principal building (max)	40'/3 stories				
<b>E. Allowed Building Elements</b>					
Porch, Stoop					
Balcony					
Gallery, awning					

*See Sec. 1.5.11 for specific building element requirements*

*Sec. 2.2.7 Residential infill regulations for additional building setback and building height requirements may apply*

Planning Commission action: Approved 8 May 2012

**Section 1.5.12** on pages 1-19 through 1-21 should be amended to read:

1. **Front facing Semi-Flush**
    - a. Garage doors are oriented toward the street
    - b. **The garage door(s) may not comprise more than 50% of the width of the front wall plane of the house.** ~~Garage doors must be positioned between 5 and 20 feet behind the front wall plane of the house (or any rear wall plane that adjoins a street), extending no more than 30% of the width of the house.~~
    - c. ~~The garage door may not extend more than eight feet beyond the front wall plane of the house.~~
    - d. If the garage doors are recessed behind the front wall plane of the house by more than six feet, the garage doors may comprise more than 50% of the width of the front façade of the house.
  2. Recessed
    - a. Garage doors are oriented towards the street.
    - b. Garage doors must be positioned at least **10** ~~20~~ feet behind the front wall plane of the house.
  3. Side-Loaded
    - a. Garage doors are oriented perpendicular to the front wall plane.
    - b. ~~Any wall of the garage must be located at least three feet behind the front wall plane of the house.~~
  4. Carriage Court
    - a. Garage doors are oriented perpendicular to the front wall plane.
    - b. Garage is located entirely in front of the house, **and is attached to the house.**

- E. Townhouse
2. Front-Loaded
    - a. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
    - b. Combined parking and driveway area shall not constitute more than 50% of the area between the front building façade and the front property line.
    - c. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. **To provide sufficient depth,** the garage doors must be set back at least 20 feet from the sidewalk.
    - d. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.

B. Applicability

1. Any private residential garage constructed after the effective date of this UDO must meet the standards of this section. Alternative compliance may be considered by the Planning and Development Officer, consistent with the intent of this section.
2. In addition to the standards provided below, attached and detached garages must meet all applicable requirements for either principal buildings or accessory structures as set forth in this UDO.
3. **Any garage constructed prior to the adoption of this UDO that does not comply with these private residential garage parking options is not considered non-conforming. If a pre-existing garage is voluntarily demolished, any new garage must be constructed in compliance with these regulations. If a pre-existing garage that does not meet these regulations is destroyed following a casualty, the garage may be reconstructed to its previous state.**

Planning Commission action: Approved 8 May 2012

Section 5.2.2.C.1.b on page 5-5 should be amended to read:

“No tree or land disturbing activity, animal pen, structure, **septic system, stormwater facility** or vehicular surface area may be located within 32 feet of the Metro-Park boundary.”

Planning Commission action: Approved 15 May 2012

Section 5.5.1 on page 5-22 should be amended to include a new subsection “F” that addresses minimum height.

The minimum height of any building in the Transit Overlay District shall be two stories.”

Planning Commission action: Approved 15 May 2012

Sections 5.1.1.B.4.b and B.5 should be amended to read:

“The –FWPOD is **applicable to WS-IV waters only**, and is divided into two areas:...”

#### 5.1.1.B.5.b

“The –SWPOD is **applicable to WS-III waters only**, and is divided into two areas:...”

Planning Commission action: Approved 15 May 2012

Section 5.1.1.E.1 should be amended to read:

**"When combined with the appropriate base district(s), height and frontage,** the TOD allows for compact, mixed use development around planned transit stations as designated on the Urban Form Map or in an adopted station area plan."

Planning Commission action: Approved 15 May 2012

Section 5.2.1.A.3.h on page 5-4 should be amended to read:

**"Resource extraction** ~~Mining, quarries, landfills"~~

Planning Commission action: Approved 15 May 2012

Section 5.2.2.C.1.a should be amended to read:

"The setbacks of the underlying zoning district shall apply with the exception that any portion of a lot abutting a Metro-Park boundary requires a **32-** 50- foot protective yard along the entire length of the property boundary ~~unless the yard qualifies as tree conservation area under Sec. 9.1, in which case the setback shall be 32 feet.~~

Planning Commission action: Approved 15 May 2012

Section 5.3.1.C.1 on page 5-8 should be amended to read:

"The minimum gross site size is two acres within the SHOD-1, except for **single- two- and multi-family** dwellings, **cottage court**, congregate care facilities or life care communities."

Section 5.3.1.C.2 on page 5-8 should be amended to read:

"Lots and uses that on site less than two acres in size are not to be deemed nonconforming by virtue of this Article ~~nor shall this Article prevent the subdivision of tracts into lots of less than two acres if a unity of development plan is approved by the City for the entire subdivision prior to its subdivision."~~

Language should be added after each section reference in 5.3.1.D.2 and D.3 on page 5-8 that reads:

“...or on parcels two acres and larger in size, the protective yard must be established as tree conservation area in accordance with Article 9.1 of this UDO.”

Planning Commission action: Approved 15 May 2012

Section 5.4.3.D.4 on page 5-16 should be amended to read:

“Upon receiving the neighborhood built environmental characteristics and regulations analysis, the City Council shall review the results of the analysis and determine whether to authorize a public hearing to propose any specific neighborhood built environmental characteristics and regulations into this section. If the City Council proposes that specific built environmental characteristics and regulations for the neighborhood study area be considered for inclusion in this section, a text change **petition may be submitted and processed for review per Section 10.2.3.D.2, D.3 and D.4 of this UDO.** ~~public hearing shall be held.~~

Planning Commission action: Approved 15 May 2012

Section 6.4 on page 6-19

Various ancillary uses in the RX district – increase the maximum size from 2,500 square feet to 4,000 square feet.

Planning Commission action: Approved 22 May 2012

Section 6.4.6.B.2 should be amended to include a new subsection d that reads:

**“d. In the R-10 district, special events, such as wedding receptions shall not be permitted.”**

Planning Commission action: Approved 22 May 2012

Section 6.4.1.B.1 on page 6-19 should be amended to read:

“A day care for a maximum of **five eight** persons in the residence of the provider.”

Section 6.4.1.C.1 should be modified to read:

"A day care for more than **five** **eight** persons where staffing complies with state and local regulations. Includes nursery school and preschool."

Planning Commission action: Approved 22 May 2012

Section 6.2.1.E.2 (new) on page should be added on page 6-8 that reads:  
"Only permitted in the R-2 and R-4 districts in association with a Conservation Development **or Compact Development**

Planning Commission action: Approved 22 May 2012

#### Section 6.1.4

Planning Commission suggests altering the use chart on page 6-6 to add restricted agriculture as a permitted use in the CM district.

Planning Commission action: Approved 22 May 2012

The Planning Commission recommended a new residential development option called "Compact Development". This use should be added to the use chart on page 6-3 under "Conservation Development". The use should be listed as permitted in all residential zoning districts.

Planning Commission action: Approved 22 May 2012

#### Section 6.1.4

Congregate care should be amended from a general use in the R-6 district to a Special use in the permitted uses table.

Planning Commission action: Approved 22 May 2012

#### Section 6.1.4

Jails and detention facilities should be a special use in all Mixed Use zoning districts, except RX, MH, CM.

Planning Commission action: Approved 22 May 2012

Section 6.2.2.F on page 6-11 should be amended to include orphanages, monasteries and convents. By adding these uses to the definition, subsection F.2 would apply, thereby permitting equivalent dwelling units for these uses.

#### **"F. Rest Home, Convent, Monastery, Orphanage**

## 1. Defined

A long-term care facility for individuals who need full-time assistance and supervision, **or a residential facility for persons under religious vows.** The focus is on individuals who cannot live independently and require full-time nursing assistance, and on younger individuals **without parents or** who have physical or mental handicaps.

Planning Commission action: Approved 22 May 2012

Section 6.3.1.C.1 on page 6-13 should be amended to read:

“An institution of higher education, ~~especially one providing a~~ including general or liberal arts education, **graduate level education and rather than** technical or professional training.”

Planning Commission action: Approved 22 May 2012

Section 6.3.3.A.1 on page 6-14 should be amended to add a new letter “e” and “f” that reads:

- “e. Electrical substation
- f. Utility service.”

The same use should be removed from section 6.3.3.B1.b.

Planning Commission action: Approved 22 May 2012

Section 6.3.2.C.2.k on page 6-15 should be amended to read:

“If the tower is located within an ~~Historic Overlay District that restricts height or Metro Park Overlay District,~~ the tower cannot exceed the maximum building height allowed within the ~~underlying more restrictive~~ zoning district.”

This language should be replicated in Section 6.3.2.D.2.m. This section regulates telecommunication towers in excess of 250 feet.

Planning Commission action: Approved 22 May 2012

Section 6.6.2 on page 6-37 should be amended to read:

### “A. Resource Extraction Use Category

Characterized by uses that extract minerals and other solids and liquids from land.

Resource extraction includes the following:

1. Dredging, earth extraction, **gas extraction**.
2. Extraction of phosphate or minerals.
3. Extraction of sand or gravel, borrow pit.
4. Land clearing for the purpose of resource extraction.
5. Metal, sand, stone, gravel, clay, mining and other related processing.
6. Stockpiling of sand, gravel, or other aggregate materials.

Planning Commission action: Approved 22 May 2012

Section 3.5.3.C would be amended to add a new subsection 4 which reads:

- 4. Permitted uses**
- a. **Landscaping, fences, walls, and berms**
  - b. **Swales, underground detention facilities and bioretention facilities.**  
**Such detention facilities must be located at least 20 feet from the district boundary line. Landscaping quantities specified in subsection c.2 may not be reduced.”**

Planning Commission action: Approved 22 May 2012

Section 3.4.5.G on page 3-18 should be amended to read:

<b>G. Streetscape Requirement</b>	
Main Street; or	see sec. 8.5.2.A
Mixed Use; or	see sec. 8.5.2.B
Commercial; or	see sec. 8.5.2.C
Multi-way; or	see sec. 8.5.2.D
Parking	see sec. 8.5.2.E
The determination of the appropriate streetscape treatment shall be made by the Planning Director, based on the existing built context and character.	

Commission action: Approved 22 May 2012

Section 1.2.3 (new)

New section, on page 1-5, would read:

**“Section 1.2.3 Rules of Interpretation**  
**Where an approved zoning condition conflicts with the base zoning district specified within this UDO, the following shall apply:**

1. The new base district is controlling.
2. The UDO height, setback, parking, landscaping screening regulations when more stringent than in the conditional use zoning district ordinance is controlling. The calculation of height, setback and parking shall be in accordance with the UDO.
3. All approval processes shall follow the regulations in Chapter 10 of this UDO.
4. If the conditional use zoning ordinance limits uses to a former non UDO zoning district, those use limitations shall continue except if the former allowed use is not allowed in the new UDO base zoning district. Limited uses and special uses will be determined by the UDO base district.”

Planning Commission action: Approved 22 May 2012

Section 7.3.13.D.1 on page 7-35 should be amended to read:

#### D. Directional Signs

A sign that orients pedestrian and vehicular traffic to different areas within a development of over 200 acres.

1. Directional signs are only allowed in developments that contain at **100 200** acres.

Commission action: Approved 29 May 2012 –

Section 7.4.1 on page 7-44 should read:

#### A. General

1. This Article does not apply to lighting installed in the public right-of-way or along any greenway.
2. The installation of site lighting, replacement of site lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location shall be made in strict compliance with this UDO.
3. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures not subject to paragraph 4. below.
4. Existing site lighting that fails to conform with this Article shall be discontinued, removed, or made to conform within 5½ years after the effective date of this UDO or date of annexation.

Planning Commission action: Approved 29 May 2012

Section 7.1.2 on page 7-3 should be amended as noted. Subsection A.4 should be moved to 7.1.3.C on page 7-8. Section 7.1.2.B should also be amended to read:

**A. Calculation of Required Parking**

1. Parking shall be provided in accordance with Sec. 7.1.2.C. Where a use is not specifically listed or only a broad use category is shown, the Zoning Enforcement Administrator is responsible for categorizing the use in accordance with Sec. 6.1.2.
2. When a lot is used for a combination of uses, the parking requirements are the sum of the requirements for each use, and no parking space for one use can be included in the calculation of parking requirements for any other use, except as allowed as in Sec. 7.1.4.B.
3. In determining the required number of parking spaces, fractional spaces are rounded to the nearest whole number, with one-half or more counted as an additional space.
4. ~~An uncovered outdoor dining area of no more than 25% of the area of any indoor dining is exempt from the calculation of required parking spaces. Any additional area shall provide parking at the indoor dining rate.~~

**"B. Parking Administrative Alternative**

The parking ratios of this UDO apply unless an alternate parking ratio is approved by the Planning and Development Officer in accordance with Sec. 10.2.17 and the requirements below:

1. Alternate parking ratios may be approved where an applicant submits a parking study, prepared and sealed by a registered professional engineer in the State of North Carolina. Such a study must illustrate that the required parking ratios of Sec. 7.1.2.C do not accurately apply to a specific development proposal.
2. The data submitted must include, at a minimum, the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses.
3. The data must be obtained either from relevant studies published in refereed journals or other secondary source of comparable authority; or from primary studies of no fewer than three comparable developments within the regional market. **The regional market shall be the Consolidated Metropolitan Statistical Area.**
4. **The Alternate shall not be subject to review by the Appearance Commission.**

**C. Urban Frontage (-GR, -UL, -UG - SH)**

1. One parking space is required per dwelling unit; however, no more than two on-site parking spaces per dwelling unit are allowed.
2. No vehicle parking is required for the first 16 dwelling units.

3. One parking space per 500 square feet is required for all nonresidential gross floor area or the minimum number of parking spaces set forth in Sec. 7.1.2.C, whichever is less.
4. No vehicle parking is required for the first 10,000 square feet of ground story gross floor area that meets the ground story height and ground story transparency requirements for a mixed use building (see Sec. 3.2.6).
5. Restaurants (regardless of size) within 100 feet of a Residential District, with hours of operation extending past 11 PM, must provide parking for the entire floor area devoted to the restaurant at a rate of one parking space per 150 square feet of gross floor area or one space per five seats, whichever is greater.
6. Urban Frontages in a DX- District shall use the requirements of Sec. 7.1.3.A.
7. Urban Frontages in a -TOD shall use the requirements of Sec. 7.1.3.B.
8. **An uncovered outdoor dining area of no more than 25% of the area of any indoor dining is exempt from the calculation of required parking spaces. Any additional area shall provide parking at the indoor dining rate.**

Planning Commission action: Approved 29 May 2012

Section 7.1.3 on page 7-7 should be amended to read:

#### **B. TOD Overlay District (-TOD)**

##### **1. General Requirements**

- a. One parking space is required per dwelling unit; however, no more than two on-site parking spaces per dwelling unit are allowed.
- b. No vehicle parking is required for the first 16 dwelling units.
- c. One parking space per 500 square feet is required for all nonresidential gross floor area or the minimum number of parking spaces set forth in Sec. 7.1.2.C, whichever is less.
- d. No vehicle parking is required for the first 10,000 square feet of ground story gross floor area that meets the ground story height and ground story transparency requirements for a mixed use building (see Sec. 3.2.6).
- e. Surface parking associated with a nonresidential use may not exceed **100% of the requirement enumerated in Section 7.1.2.C a rate of one parking space per 300 square feet of gross floor area**. Parking spaces provided in an underground or structured parking garage do not count toward the maximum number of spaces permitted.”

Planning Commission action: Approved 29 May 2012

Section 7.1.9.B. on page 7-13 should be amended to read:

#### **B. Location**

If a loading area is provided, it must meet the following standards.

1. Loading areas must be located to the side or rear of buildings and be screened as set forth in Sec. 7.2.3.B.
2. Loading areas cannot be located in an A or B neighborhood transition zone.
3. With the exception of areas specifically designated by the City, loading and unloading activities are not permitted in the public right-of-way.
4. Loading and unloading activities may not encroach on or interfere with the use of sidewalks, drive aisles, queuing areas and parking areas by vehicles or pedestrians.
5. **When an Urban Frontage is applied, the loading area must contain ample room to accommodate the loading vehicle. The loading vehicle shall not impede or encroach into the public right-of-way, nor the public sidewalk.**

Planning Commission action: Approved 29 May 2012

Section 7.2.7.D.3.d on page 7-23 should be amended to read:

### **3. Pruning and Trimming**

- a. All required landscaping shall be allowed to reach its required size and shall be maintained at that required size.
- b. Except for trimming and pruning done in strict accordance with the terms, conditions, and provisions of a permit issued by the City Forestry Specialist, or pruning and trimming done under an issued permit in strict accordance with the line clearance policies and standards governing such activities established pursuant to Part 9, chapter 8, required landscaping shall not be cut or excessively trimmed or otherwise damaged so that their natural form is impaired.
- c. A violation of this section shall subject the violator to a civil penalty of a minimum of \$1,000 for the first tree plus \$100 per caliper inch of any other tree unlawfully pruned damaged or excessively trimmed.
- d. This civil penalty shall be processed as set forth in Sec. 10.4.2. In addition to this civil penalty, if more than 50% of the crown of a tree is removed within a continuous five-year period, or more than 40% of the critical root zone of the tree is subjected to tree disturbing activity, or if more 1/3 of the circumference of the tree is exposed by pruning cuts, the owner of real property, where a violation has occurred, shall replace each unlawfully pruned **or other mechanically wounded**, damaged, excessively trimmed, or removed tree with a tree or trees of equal diameter.

Commission action: Approved 29 May 2012

Section 7.2.8 on page 7-25 should be amended to read:

### **“D. Retaining Walls**

**Retaining walls that are located within 30 feet of a public sidewalk shall be required to adhere to the following:**

1. A retaining wall may not exceed a continuous, uninterrupted height of fifteen feet. Additional height may be permitted, provided the wall contains a two-foot step back for each fifteen feet of wall height.
2. This regulation shall not apply to walls associated with culverts or stream crossings or to transportation improvements, such as bridge overpass structures for streets or railroads.

Planning Commission action: Approved 29 May 2012

Section 6.5.5 on page 6-32 should be amended to read:

**"B. Use Standards for the CX District**

1. The minimum size of the site is at least two acres.
2. All storage shall be contained within a fully-enclosed building. However, the storage of boats, RV's or other similar vehicles may be permitted in accordance with Article 7.5.
3. **All storage units must be contained in a single building and accessed internally. For properties where an Urban Frontage is applied, storage units are not permitted on the ground floor. The outdoor storage of boats, RV's or similar vehicles is not permitted.**
4. A Type A1 or A2 transitional protective yard (see Sec. 7.2.2) must be established along all shared property lines, except for an adjacent self-service storage, heavy industrial use, waste-related service or residential use.
5. A Type B1 or B2 transitional protective yard (see Sec. 7.2.2) must be established along all property lines abutting a residential use.
6. A Type C1 or C2 street protective yard (see Sec. 7.2.2.B) must be established along all property lines abutting a public right-of-way.

**C. Use Standards for the DX District**

1. **All storage shall be contained within a fully-enclosed building.**
2. **All storage units must be contained in a single building, and accessed internally. Storage units are not permitted on the ground floor. The outdoor storage of boats, RV's or similar vehicles is not permitted.**

**D. Use Standards for the IX District**

1. **The minimum size of the site is at least two acres.**
2. **All storage shall be contained within a fully-enclosed building. However, the storage of boats, RV's or other similar vehicles may be permitted in accordance with Article 7.5.**

3. A Type A1 or A2 transitional protective yard (see Sec. 7.2.2) must be established along all shared property lines, except for an adjacent self-service storage, heavy industrial use, waste-related service or residential use.
4. A Type B1 or B2 transitional protective yard (see Sec. 7.2.2) must be established along all property lines abutting a residential use.
5. A Type C1 or C2 street protective yard (see Sec. 7.2.2.B) must be established along all property lines abutting a public right-of-way."

Planning Commission action: Approved 29 May 2012

Section 8.3.5.C.2. on page 8-10 should be amended to read:

"2. Driveways for Residential Uses

- a. If When an improved alley with a ~~width~~ right-of-way of at least 20 feet in ~~width~~ is provided, all vehicular access shall take place from the alley. Access may be taken from the side street on corner lots.
- b. Except for townhouse lots, all lots 40 feet or less in width platted after the effective date of this UDO, are required to take vehicular access from an alley.
- c. No residential lot may have more than two driveways on the same street. **Multiple** driveways **that serve one lot** may be no closer than **40 45** feet. ~~from any other driveway~~.
- d. Non-alley loaded driveways may intersect a street no closer than 20 feet from the intersection of two street rights-of-way.
- e. Driveways must be located a minimum of ~~one~~ three foot from the side lot line. However, a driveway may be located on the lot line closer than 3' if permitted per the Transportation handbook. ~~if it physically touches a driveway on an abutting lot~~.
- f. Parking and driveway areas shall not constitute more than 40% of the area between the front building line and the front property line.

Planning Commission action: Approved 5 June 2012

Section 8.4.4 D. on page 8-17 should be amended to include the following change:

Travelway

G Parking Lane

Parallel (~~either side~~)

Head in (~~one side only~~) add (**Both sides**)

General

~~Parking type~~ "Parking type"

Planning Commission action: Approved 5 June 2012

The Planning Commission recommends amending the following roadway cross sections: Increasing the width of medians for all streets with four lanes and more to 16' in width for the following cross sections:

- Avenue 4-lane on page 8-21,
- Avenue 4-lane divided on page 8-22,
- Avenue 6-lane divided on page 8-22,
- Multi-way boulevard (parallel) on page 8-23,
- Multi-way boulevard (angle) on page 8-24.

Planning Commission action: Approved 5 June 2012

The Planning Commission recommends amending the text in Section 8.4 on page 8-14 to show the paved shoulder as a bicycle lane.

Planning Commission action: Approved 5 June 2012

Section 8.5.1.A.2 on page 8-28 should be amended to read:

## **“2. Additions and Repairs**

- a. A building or site may be renovated or repaired without meeting the streetscape standards, provided there is no increase in gross floor area or improved site area.
- b. When a building or site increased in gross floor area or improved site area **cumulatively** by more than **10 25%**, the streetscape provisions of this Article must be met.

Planning Commission action: Approved 5 June 2012

Section 8.1.7.A on page 8-4 should be amended to read:

**“A. Platted easements and deed of easements** shall be provided in the locations **and dimensions** required by the City in order to:

- 1. Allow for adequate storm drainage facilities
- 2. Allow for proper installation of water and sewer lines, whether immediately proposed or necessary for adequate service in the future;
- 3. Allow for cross-access between properties;
- 4. Allow for adequate transit facilities **and access**;

5. Allow for adequate pedestrian **and bicycle** access; and
6. Allow for adequate right-of way for street types;
  
- 7. Allow for adequate Public access; and**
- 8. Allow for adequate slope for roadway construction."**

Amend definition of "storm drainage facilities" to include above ground or ground facilities and verify that if an alley is used for solid waste pick up, that it be constructed to meet specified standards.

Planning Commission action: Approved 5 June 2012

Section 8.5.1.E on page 8-28 should be amended to read:

#### **E. Adopted Streetscape Plans**

1. **In the event an adopted streetscape plan regulates streetscape improvements, the adopted Plan shall control. The adopted streetscape plans are contained within the Raleigh Street Design Handbook. The following adopted streetscape plans must be followed in place of the streetscape types in Sec. 8.5.2:**
  - a. ~~Cameron Village Streetscape and Parking Plan.~~
  - b. ~~Cameron Village Streetscape and Parking Plan Amendment.~~
  - c. ~~Downtown Streetscape Master Plan.~~
  - d. ~~Glen lake Office Park Streetscape & Parking Plan.~~
  - e. ~~Glenwood South Streetscape & Parking Plan.~~
  - f. ~~Hillsborough Morgan Streetscape & Parking.~~
  - g. ~~Oakwood Mordecai Business District Streetscape Plan.~~
  - h. ~~Peace Streetscape & Parking Plan.~~
  - i. ~~Promenade at Crabtree Streetscape & Parking Plan.~~
  - j. ~~Southeast Raleigh Streetscape Master Plan.~~
  - k. ~~Stanhope Center Streetscape and Parking Plan.~~
  - l. ~~University Village Streetscape Plan on Hillsborough Street.~~
  
2. The requirements of this Article are intended to serve as minimum standards. Where a streetscape plan adopted before the effective date of this UDO sets a lower standard, the standard in this Article shall prevail.
  
3. The City Council may modify an adopted Streetscape Plan following written notice to property owners along the street.

Planning Commission action: Approved 5 June 2012

The Planning Commission recommends that the following policy be incorporated into the rewrite of the transportation handbook.

**Minimum sidewalk and street obligation –**

A minimum requirement needs to be based on the new street standards for sidewalk and street sections. An equivalent evaluation for street assessments such as Local streets in the UDO or Residential streets in the existing code will have a tiered approach. The existing regulations are contained within the SSDA. These standards will remain in the handbook. The sidewalk standard is 6 feet in width. Anything constructed above the six foot width would be eligible for reimbursement.

Planning Commission action: Approved 5 June 2012

Section 8.4.1.B.3. on page 8-12 should be amended to include this statement as it applies to existing areas:

To the extent possible, the streetscape will be required if it meets the thresholds for existing streets. Depending on the level of redevelopment on an existing corridor, there may be widening to transition to the new street type to the extent possible. Section 8.4.1.B.3 provides regulation for an existing substandard street. This section states that the street may remain as-is, unless the street is extended or rebuilt. In this instance, the street must meet the standards of Section 8.4 and the street must be brought into compliance. As is true today, the City may choose to not build the full extent of the right-of-way.

Planning Commission action: Approved 5 June 2012

Section 8.5.2. should be amended to include the following to apply to the standards used by the Public Works director to reduce a sidewalk width in the streetscape plans.

This would permit an alteration of a dimension on the administrative level. This procedure is similar in nature to administrative alternates. A set of administrative adjustment standards is included in chapter 8. The Public Works Director would review each adjustment request in consideration of the standards.

Planning Commission action: Approved 5 June 2012

Section 8.1.1 on page 8-3 should be amended to read:

- "A. This Chapter applies to all development within the City or within the City's extraterritorial jurisdiction as set forth in Sec 10.2.5 and Sec. 10.2.8.
- B. No construction shall commence until all required plans, profiles and specifications have been reviewed and approved by the City or other governmental approving agency.
- C. No City services or utilities shall be extended or furnished to any development until the applicant has installed the improvements specified in this UDO or guaranteed their installation as provided for in this UDO.
- D. Waivers this Chapter are approved by the City Council pursuant to Sec. 11.2.5.E.2. The Public Works Director where specifically authorized may approve administrative design adjustments. Any adjustment not approved by the Public Works Director may in the sole discretion of the developer be brought to the City Council as a waiver request.
- E. All improvements shall be in conformance with all adopted City plans.**

Additionally, staff suggests the addition of a new section in 8.1 that permits a fee in lieu for public improvements. A new 8.1.10 would be added which reads:

**Sec. 8.1.10 Fee in Lieu**

**Where the Public Works Director determines that construction of public improvements would not be feasible, a fee in lieu may be permitted. In this instance, right-of-way dedication and all necessary easements shall be dedicated to the city. Engineering drawings may be required to determine the extent of public improvements and easements."**

Planning Commission action: Approved 5 June 2012

Section 8.3.1 on page 8-6 should be amended to read:

**Sec. 8.3.1. Intent**

- 1. The intent of the maximum block length, block perimeter and connectivity regulations is to provide a well-connected street network.
- 2. Large block lengths with limited connectivity contribute to street congestion and add driving distance that can negatively impact

- emergency services. New streets should be designed to consider future development.
3. The access regulations are intended to provide safe and convenient vehicular and pedestrian access between adjacent developments and to lessen traffic congestion. Pedestrian, bike and vehicular access should be safe, direct and convenient.
  4. **Design** Adjustments to the requirements of this Article may be appropriate where topographic changes are too steep, where existing buildings, streams other natural features or site layout of developed properties prevent cross access, where adjoining uses are incompatible, or where strict compliance with this UDO would pose a safety hazard. See section 10.2.18.

Planning Commission action: Approved 5 June 2012

Section 8.3.2.B.1 on page 8-7 should be amended to read:

- B. Block Measurement
1. A block is bounded by a street (not including an alley) ~~that meets the requirements of Article 8.4.~~
  2. Block perimeter is measured along the centerline of intersecting streets that encompass the block and block length is measured from centerline to centerline of intersecting streets.
  3. The maximum block length and perimeter may be extended by 25% where the block includes a pedestrian passage (see Sec. 8.4.8) or an alley (Sec. 8.4.7) that directly connects the two streets on each block face.
  4. A block may be broken by a civic building or open lot, provided the lot is at least 50 feet wide and deep and provides a pedestrian passage meeting the requirements of Sec. 8.4.8 that directly connects the two streets on each block face.

Planning Commission action: Approved 5 June 2012

Section 8.3.3.C on page 8-7 should be amended to read:

C. Principal Structures per Lot

In the R-1, R-2, R-4 and R-6 districts, only one principal structure is permitted per lot. This does not include **cottage courts, townhomes and apartments in a conservation subdivision, condominiums** or specifically allowed nonresidential uses as set forth in Sec. 6.1.4.

Planning Commission action: Approved 5 June 2012

Section 8.3.4 on page 8-8 should be amended to read:

B. Connectivity Required

1. Proposed streets must be interconnected and must connect with adjacent streets external to the subdivision in order to provide multiple routes for pedestrian and vehicle trips from, to and within the subdivision
2. Any residential **street** subdivision with more than 25 lots must provide at least two points of vehicular ingress and egress from existing and surrounding streets.

Planning Commission action: Approved 5 June 2012

Section 8.3.5.A.4 on page 8-9 should be amended to read:

A. General Access Requirements

1. All existing and proposed development must provide a satisfactory means of vehicular, pedestrian and bicycle ingress and egress to and from a street or an abutting site.
2. All on-site parking areas must have vehicular access from a street, an alley, a drive aisle or a cross-access easement.
3. All on-site parking areas must be designed to allow vehicles to enter and exit the parking area in a forward motion, unless otherwise approved by the Public Works Director. An improved alley may be used as maneuvering space for access to on-site parking areas.
4. All lots ~~abutting all streets other than local streets within any Mixed Use District and all lots abutting street rights of way greater than 100 feet in width~~ must provide cross access with abutting properties unless otherwise not required by the Public Works Director in accordance with Sec. 8.3.6.

Planning Commission action: Approved 5 June 2012

Section 8.3.5.C.1.b. on page 8-9 should be amended to read:

"b. Driveway dimensions **measured at the street right-of-way** shall be in accordance with the following table:

	Width (min)	Width (max)	Radius (max)
Residential <b>on a local street,</b>	<b>810'</b>	<b>12 18'</b>	10'

up to 6 <b>off street parking</b> spaces			
Residential 7+ <b>off street</b> <b>parking</b> spaces (one way)	12'	16'	10'
Residential 7+ <b>off street</b> <b>parking</b> spaces (two-way)			
Mixed use/commercial (one way)	12'	18'	10'
Mixed use/commercial (two way)	20'	32'	15'
Industrial/service	30'	40'	30'

Planning Commission action: Approved 5 June 2012

Section 8.3.5.D. on page 8-10 should be amended to read:

"Subdivision and site plans **on all streets other than local streets** prepared for all Mixed Use Districts and along streets with rights of way greater than 100 feet in width shall comply with the following standards:

1. Internal vehicular circulation areas shall be designed and installed to allow for cross-access between abutting lots;
2. When an abutting owner refuses in writing to allow construction of the internal vehicular circulation on their property, a stub for future cross-access shall be provided as close as practicable to the common property line.
3. When cross-access is waived by the Public Works Director in accordance with Sec. 8.3.6, bicycle and pedestrian connections shall be provided between abutting properties except where there is a perennial wet stream crossing greater than 15 feet in width which interferes with such access.
4. Rights of vehicular and pedestrian access shall be granted to all abutting properties contemporaneously with the recording of the final subdivision plat or prior issuance of a building permit for an approved site plan, whichever event first occurs on the property after application of this UDO. This right of cross access shall be recorded in the register of deeds office in the county where property is located. By the end of the next business day following the recordation, the applicant shall provide

to the Planning and Development Department evidence of recordation of the cross access agreement. No building permit will be issued until evidence of recordation of the cross access agreement is provided to the City.

Planning Commission action: Approved 5 June 2012

Section 8.4.1.C. on page 8-12 should be amended to read:

**C. Certificate of Compliance Letter of Acceptance Required**

1. Sidewalks, streets and street trees must be installed prior to the issuance of a letter of acceptance.
2. A ~~temporary~~ conditional **letter of acceptance** ~~certificate of compliance~~ may be issued in accordance with Sec.8.1.3 ~~7.2.7.A~~ when the Public Works Director determines that due to the unavailability of plant material or weather concerns that planting of the street trees would jeopardize the health of plant.
3. Where determined appropriate by the Public Works Director, the sidewalk and street tree planting area may occur on private property subject to an easement for public access.

Planning Commission action: Approved 5 June 2012

Section 8.5.1.C. on page 8-28 should be amended to read:

**"C. Tree Planting**

1. Unless otherwise noted below, all trees planted in accordance with this Article must be shade trees.
2. Where overhead utilities exist, one understory tree shall be planted every 20 feet on center, on average.
3. All required street trees must meet the design and installation requirements of Sec. 7.2.7.
4. **Where development abuts a street controlled by the North Carolina Department of Transportation, street trees may not be required in the right-of-way, at the discretion of the North Carolina Department of Transportation. In this instance, a type**

**C2 street protective yard is required in accordance with section 7.2.4.**

Planning Commission action: Approved 5 June 2012

Section 8.5.1. F. (new) on page 8-28 should be added to read:

**“ E. Administrative Design Adjustment Findings**

The Public Works Director may in accordance with Sec. 10.2.18 approve a street design adjustment, subject to the following findings:

1. The approved adjustment meets the intent of this Article.
2. The approved adjustment complies with the Comprehensive Plan and adopted City plans.
3. The approved adjustment does not increase congestion or compromise safety.
4. The approved adjustment does not create additional maintenance responsibilities for the City.
5. The approved adjustment has been designed and certified by a licensed engineer.”

Planning Commission action: Approved 5 June 2012

Section 8.5.1.A.1.d. on page 8-28 should be added to read:

1. General

- a. Any new development activity, and any addition or repair subject to the requirements of Sec 10.2.5 and Sec. 10.2.8 must meet **street type and** streetscape standards of this Article for existing streets abutting the subject property.
- b. The streetscape types of Sec. 8.5.2 shall be applied based on the zoning and frontage type applied to the subject property.
- c. Unless otherwise specifically provided, no permit for the construction, reconstruction, extension, repair, or alteration of any building, structure, or use of land, and no building or land, or any part of any building or land, may be occupied or used until the streetscape requirements of this Article have been met.
- d. **Administrative design adjustments approved by the Public Works Director pursuant to Sec. 11.2.16 8 may be appropriate when an existing building would impede roadway expansion; when transitioning from a different street section; or where strict**

**compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.**

Planning Commission action: Approved 5 June 2012

Section 8.6.3.A. 2 and 3 on page 8-35 should be amended to read:

- A. Improvements Eligible for Reimbursement
  1. The City will pay to the developer unit costs for development-related improvements over and above the unit costs for applicable streets.
  2. The following installations are eligible for reimbursement:
    - a. **Any street construction in excess of the minimum standard needed to serve the development e additional improvements to the rights of way.**  
~~The additional right of way, sub-base, grading, drainage, surface material, and pavement width for Minor Residential streets, Residential Streets, Commercial streets, Residential Collector Streets and Collector Streets.~~
    - b. **Any right-of-way dedication in excess of the minimum standard needed to serve the development.**  
~~The additional right-of-way and improvements to Thoroughfare rights-of-way required, minus the right-of-way and street improvements that would have been required under the applicable non-thoroughfare street section for the development.~~
    - c. Right-of-way for controlled-access freeways.
  3. **Reimbursements are subject to availability of funds and eligibility for reimbursement through the City's facility fee program.**

Planning Commission action: Approved 5 June 2012

Section 8.6.4 (new) should be added on page 8-35 to establish the maximum timeframe for public improvement reimbursement to read:

"Sec. 8.6.4 Expiration of Reimbursement  
Any request for reimbursement for street, greenway or utility installation must be submitted to the City within two years of completion and acceptance by the city or state, whichever is applicable.

Planning Commission action: Approved 5 June 2012

Section 8.5.4 on page 8-32 should be amended to read:

**"A. General**

1. No new private streets are allowed, except for alleys.
2. All existing private streets must remain under maintenance of the homeowners association, **and must be maintained to equivalent public street standards.**
3. Private **alleys streets** must **be** constructed to the **same** design and construction standards as **specified in the Raleigh Street Design Handbook.** **public streets.**
4. Private **alleys streets** are not dedicated to the public and shall not be publicly maintained.
5. ~~Private streets shall be owned and maintained by a property owners association to equivalent standards as a public street.~~

**B. Homeowners' Association**

1. In no case shall the City be responsible for failing to provide any emergency or regular fire, police or other public service when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the developer, homeowners' association or occupants.
2. In no case shall any approval, permit or certificate granted be valid unless the homeowners association documents clearly indicate the limitations of governmental responsibility and unless all conveyances indicate those limitations provided, however, the provisions of this section and all other provisions of the homeowners' declaration are applicable to the portions of the development conveyed and the owners of the conveyed portion, whether or not any such provisions are incorporated into the conveying documents.

**C. Locked Gate Access**

1. **Any private street in existence or approved prior to the adoption of this UDO may be considered for gated access.**
2. All private streets and drives with access limited by locked gates or similar devices must provide a pass-key and lock-box of a type, at a location, and installed in a manner as may be required by the City fire department for the provision of emergency access.
3. The owner, including any homeowners association, shall maintain the lock-box, gate, and gate lock in a working order so as to ensure accessibility by emergency personnel and vehicles.
4. The City and other applicable governmental entities and their respective emergency personnel shall be granted in writing the right, without liability, to break the locked gate or such similar device when emergency personnel reasonably believe that doing so is necessary to

save life, prevent serious bodily harm, put out a fire, to prevent a crime or to apprehend an apparent lawbreaker, or to avert or control a public catastrophe.

Section 8.4.1.B on page 8-12 should be amended to read:

B. Applicability

1. When a preliminary plan, final plat or site plan proposes the construction of a new street the requirements of this Article apply.
2. Sidewalks, streets, and street trees must be installed and constructed in accordance with this Article.
3. Existing streets may remain serving existing development in their current configuration; however, they shall not be extended or substantially rebuilt except in conformance with this Article (see also Article 8.5)
4. **Gated public streets shall not be permitted.**

Section 8.5.1.A on page 8-28 should be amended to read:

**1. General**

- a. Any new development activity, and any addition or repair subject to the requirements of Sec 10.2.5 and Sec. 10.2.8 must meet streetscape standards of this Article for existing streets abutting the subject property.
- b. The streetscape types of Sec. 8.5.2 shall be applied based on the zoning and frontage type applied to the subject property.
- c. Unless otherwise specifically provided, no permit for the construction, reconstruction, extension, repair, or alteration of any building, structure, or use of land, and no building or land, or any part of any building or land, may be occupied or used until the streetscape requirements of this Article have been met.
- d. Gated public streets shall not be permitted.

Planning Commission action: Approved 12 June 2012

Section 7.3.4 on page 7-27 should be amended to include a new subsection to read:

**"E. Retaining Wall Signage in the DX District**

**Signage may be mounted to a functional retaining wall in the DX District, typically extending no more than 12 inches from the face of the retaining wall. Wall signage may not extend above the top of the retaining wall. Allowable wall signage allocated to the retaining wall in lieu of the building wall shall be in accordance with subsection B."**

Planning Commission action: Approved 12 June 2012

Section 5.1.1.E on page 5-3 should be amended to read:

**E. Transit Overlays**

**1. Transit Overlay District (-TOD)**

- a. The -TOD allows for intense, compact **and walkable** mixed-use development **in the core areas** around planned transit stations as designated on the Urban Form Map or in an adopted station area plan.
- b. The -TOD **modifies the underlying district, height and frontage standards to promote a vibrant pedestrian core by prohibiting certain incompatible uses, reducing required parking and limiting surface parking, and requiring that buildings have a minimum of two stories.** ~~mixes residential, retail, office, and public uses in a walkable environment, making it convenient for residents and employees to travel by transit, bicycle, foot or car.~~

Planning Commission action: Approved 12 June 2012

Section 7.1.4(C) on page 7-8 should be amended to read:

**C. Senior Housing**

1. **Senior housing is Dwelling or rooming units restricted to residents 62 years and older are only required to provide 1 0.5 spaces per dwelling or rooming unit.**
2. The senior housing reduction applies only to required spaces for dwelling or rooming units. If required, visitor spaces must be provided at the standard rate.
3. **The parking reduction for senior housing is only available for multi-unit living contained within an apartment building type."**

A defined term in chapter 12 for "senior housing" shall be added. This definition will read: "**Housing for residents at least 62 years in age. The housing must comply with the federal fair housing act.**"

Planning Commission action: Approved 12 June 2012

Section 5.1.1.E on page 5-3 should be amended to read:

**E. Transit Overlays**

**1. Transit Overlay District (-TOD)**

a. The -TOD allows for **intense, compact and walkable** mixed-use development **in the core areas** around planned transit stations as designated on the Urban Form Map or in an adopted station area plan.

b. The -TOD **modifies the underlying district, height and frontage standards to promote a vibrant pedestrian core by prohibiting certain incompatible uses, reducing required parking and limiting surface parking, and requiring that buildings have a minimum of two stories.** ~~mixes residential, retail, office, and public uses in a walkable environment, making it convenient for residents and employees to travel by transit, bicycle, foot or car.~~

Planning Commission action: Approved 12 June 2012

Section 9.1.4 on page is to remain as written, placing emphasis on protection of the environment rather than using tree conservation primarily as a visual buffer element.

Planning Commission action: Approved 19 June 2012

Section 9.1.4.E.1.on page 9-2 to read:

**E. Tree Cover Required**

- 1. Tree conservation areas proposed for SHOD-1 and SHOD-2 of primary priority areas Sec. 9.1.4.A.1 and secondary priority areas Sec. 9.1.4.1. B.1.a. through Sec. 9.1.4.B.1.c, and their alternates, must contain a basal area of at least 50 **30** square feet per acre as measured in 50 feet.**

Planning Commission action: Approved 19 June 2012

Defined Terms – The terms “perennial streams” and “blue line streams” noted in Chapter 9, should be added to the list of defined terms in chapter 12.

Planning Commission action: Approved 19 June 2012

Section 9.1.3.A. on page 9-2 should be amended to read as:

**“A. Tree Conservation**

Tree conservation area requirements by district are set forth below. **The eligibility for tree conservation is based on the gross site area.** The amount of conservation area **required** is calculated as a percentage of the **net gross site area.”**

Commission action: Approved 19 June 2012 –

Section 9.1.4.1.B. on page 9-2 should be amended to read as:

**1. Tree Conservation Area Allocation: Section 9.1.4**

Section 9.1.4.B on pages 9-2 and 9-3 should be amended to read:

**“B. Secondary Tree Conservation Areas**

1. The following secondary tree conservation areas, listed in priority order from highest to lowest, must be included once the primary tree conservation areas are exhausted.
  - a. An undisturbed area adjoining a Major or Minor Thoroughfare designated on the Comprehensive Plan varying in width between 0 and 100 feet; provided that, the total undisturbed area is equal to an area measured 50 feet perpendicular to the Thoroughfare;
  - b. A minimum 65-foot wide perimeter buffer when the adjoining or adjacent property is not a Thoroughfare or is not vacant;
  - c. A minimum 32-foot wide perimeter buffer when the adjoining or adjacent property is vacant;
  - d. The critical root zone of any tree 10 inches or greater in DBH that is located within 50 feet of a Thoroughfare or within 65 feet of any non-vacant property boundary or roadway that is not a Thoroughfare.
  - e. The critical root zone of any tree 10 inches or greater in DBH that is located within 32 feet of a vacant property boundary.
2. Secondary tree conservation areas described in paragraphs 1.a. through 1.c. above must be at least 32 feet in all directions, **and a minimum of 4,000 square feet**, excluding external boundaries.
3. Where a slope or utility easement is required on a site adjacent to a Thoroughfare, the width of secondary tree conservation areas required by paragraphs 1.a. through 1.c. above may be reduced by a half foot for each foot of easement width, but overall tree conservation requirement may not be reduced.

4. The critical root zone of a saved tree in paragraphs 1.d. or 1.e. above must be preserved in entirety even if it extends beyond 65 feet or 32 feet. When a landscape easement is obtained from the adjoining land that prohibits all tree disturbing activity, off-site areas for protected critical root zones may be included as tree conservation areas provided that such areas are not double counted as tree conservation areas.
5. As an alternative to paragraph 1.a. above, a secondary tree conservation area ~~may be provided elsewhere on the property at 1.5 times the existing secondary tree conservation area on the property. The alternate area must be at least 4,000 square feet in size, may be combined with secondary areas 1.b. and 1.c., and have a minimum uniform width of 50 feet.~~
- 5.6. As an alternative to paragraphs 1.b. and 1.c. above, secondary tree conservation areas of undisturbed areas are allowed elsewhere on the site provided that the square footage of the substituted areas is at least 4,000 square feet. No portion of Zone 1 of Neuse River Riparian Buffers as established in Title 15A of the North Carolina Administrative Code, Subarticle 2B-Section-0233, shall be designated an alternate undisturbed area.
- 6.7. As an alternate means of compliance with paragraphs 1.d. and 1.e. above, secondary tree conservation areas of individual trees 10 inches or greater in DBH and their critical root zones are allowed anywhere on the site that is not otherwise a tree conservation area provided that the critical root zone area in the alternate locations is not less than the critical root zone area that would have been required for priorities in paragraphs 1.d. and 1.e. above and that no alternate saved tree is less than 10 inches in DBH.

Planning Commission action: Approved 19 June 2012

Section 9.1.4.C.9 on page 9-3 should be amended to read:

### C. Excluded Areas

Tree conservation areas must exclude the following:

1. Sight triangles;
2. Slope easements;
3. Drainage easements;
4. Cross access easements;
5. Governmental and utility easements that prohibit trees;
6. Any easement that authorizes tree disturbing activities; and
7. Any area devoted or to be devoted to streets, future right-of-way reservation, sidewalks, driveways, walkways, storm drainage facilities, including without limitation, pipes, energy dissipaters and stormwater control measures which require the removal of vegetation.

8. Water-related activity areas located in, over, under or adjacent to a lake or natural watercourse, shown on the site plan may not be included as Zone 2 areas of Neuse River Riparian Buffers.
9. Any tree 10 inches DBH and larger that has 30% or more of its critical root zone traversed in part or in entirety by any of the excluded areas in paragraphs 1. through 7. above, **by impervious surface** or by any adjacent property.

Planning Commission action: Approved 19 June 2012

Section 9.1.4.D.1 on page 9-3 should be amended to read:

#### **D. General Conservation Area Requirements**

##### **1. Size**

The minimum dimension of a primary tree conservation area is 20 feet, **measured in all directions**.

Planning Commission action: Approved 19 June 2012

Section 9.1.4.E on page 9-4 should be amended to read:

#### E. Tree Cover Required

1. Tree conservation areas proposed for **-SHOD-1 and -SHOD-2 and Parkway Frontages** of primary priority areas Sec. 9.1.4.A.1 and 9.1.4.A.2, and secondary priority areas Sec. 9.1.4.B.1.a through Sec. 9.1.4.B.1.c, and their alternates, must contain a basal area of at least 50 square feet per acre as measured in increments of 50 feet.
2. Any required protective yard for a -SHOD 1 or -SHOD-2 that does not contain a basal area of least 50 shall be planted in accordance with the overlay district landscaping standards, and portions of the protective yard cannot be established as a tree conservation area.
3. No tree, that is either unhealthy or a hazardous tree situated within the tree conservation area, or any tree 10 inches or greater DBH with any of its critical root zone situated outside of the tree conservation area on the developing side of the property, shall count for computing basal area.
4. For those developments that fulfill any of their tree conservation area requirement using a -SHOD-1 or -SHOD-2 protective yard or with secondary tree conservation areas from Sec. 9.1.4.B.1.a through Sec. 9.1.4.B.1.c, and their alternates, the following must be submitted:
  - a. Photo panoramic panels of the intended area to be conserved. The photo panel shall equal 50 feet of the length of the tree conservation area to be saved;

- b. A tree cover report prepared by a North Carolina registered forester, or North Carolina licensed landscape architect, or Certified Arborist that, inventories each 50-foot length of proposed tree conservation area, to identify all eligible trees three inches DBH and larger, by species, DBH, with basal area calculations, and a determination of the general health of the tree stand; and
  - c. The most recent aerial photograph of the subject tract.
5. A survey of all **eligible trees** and computation of basal area may be substituted in lieu of paragraphs 4.a. and 4.c. above, provided that no dead, unhealthy, or hazardous tree is included in the survey.
6. An optional method to determine basal area for tree conservation areas is allowed when a North Carolina registered forester certifies in writing that the basal area is 60 or greater, provided all the following conditions are met:
- a. The contiguous tree conservation area that can consist of primary and secondary is at least 8,700 square feet in size, excluding easements, and consists of undisturbed wooded areas with a basal area of 60 or greater comprised of trees three inches DBH and larger;
  - b. All dimensions of tree conservation areas are at least 65 feet in all directions;
  - c. Land area that does not contain trees must be excluded unless it contains critical root zones of trees being preserved;
  - d. Any area of tree disturbing activity is excluded as a tree conservation area; and
  - e. A legible copy of the latest Wake County/City of Raleigh aerial photograph, must be included with the registered forester's certification.
7. Within each 50-foot linear increment of Zone 2 of Neuse River Riparian Buffers **or and** greenway tree conservation areas that does not contain trees, a minimum of two shade trees to enhance the riparian buffer must be planted prior to issuance of certificate of occupancy. Planted shade trees must be at least 10 gallon container size and free of circling roots at time of planting. If the area without trees will be used as shown on the approved site plan for either a tree disturbing activity allowed by Sec. 9.1.6 or a water-related activity located in, over, under, or adjacent a lake or natural watercourse, no planting of new trees shall be required.
8. Within each 50 linear feet of watercourse buffer of the -MPOD that does not contain trees, a minimum of two, 10 gallon container size shade trees, free of circling roots, must be planted to enhance the riparian buffer prior to the issuance of a certificate of occupancy.
9. Alternatively, areas that do not contain trees in Neuse Zone 2, greenways, or - MPOD watercourse buffers may be established as permanently undisturbed primary tree conservation areas to allow natural regeneration of trees, provided such areas are not located on individual lots developed for single-unit

living. Permanently undisturbed primary tree conservation areas shall not be cleared of any vegetation, or subjected to any tree disturbing activity, and shall be delineated with signs as specified by the City. Required signs must remain in place for a period of seven years. Unlawful disturbance of any permanently undisturbed primary tree conservation area shall subject the violator to a civil penalty of a minimum of \$1,000 plus 35 cents for every square foot of disturbed area, and, unlawfully disturbed areas shall be planted with twice the number of 10 gallon container shade trees as described above. Unlawful removal of any required signs shall subject the violator to a civil penalty of \$100 for each removed sign and each removed sign shall be replaced. Civil penalties shall be processed as set forth in Sec. 10.4.2.

Planning Commission action: Approved 19 June 2012

Section 9.1.5.E on page 9-6 should be amended to read:

E. Payment In Lieu of Compliance

1. Requests for fee-in-lieu payments will be considered ~~for in cases of hardship described in~~ but not limited to the following:

- a. **Site conditions Hardships** caused by man-made or natural topography that would require use of a retaining wall where the cost of wall construction would be greater than the fee-in-lieu for the area being relieved from compliance. In such cases, justification must be provided to demonstrate there are no alternate methods of construction other than use of a retaining wall. Quotes from three independent design firms or contractors must be provided to estimate the construction cost of the retaining wall.
- b. **Site conditions Hardships** where ~~the existence of priority areas 9.1.4.B.1.d and e the existence of trees and protection of their critical root zones~~ render a site undevelopable.

2. General conditions for all fee-in-lieu requests:

- a. No primary tree conservation area is eligible for a fee-in-lieu payment.
- b. Fee-in-lieu payments for tree conservation area will not be considered when the objective is to develop the site without regard for the tree conservation priorities of Sec. 9.1.4.
- c. Fee-in-lieu payments for tree conservation area will not be considered when the objective is to achieve increased site visibility at the expense of tree **conservation protection**.
- d. Prior to requesting a monetary payment in lieu of compliance, the applicant must examine alternate methods to preserve the required tree conservation priority areas. Upon submittal of a fee-in-lieu request, the applicant must provide proof of consideration of alternatives and

justification why the alternatives are not feasible. The City may require that additional alternate methods be examined.

- e. Alternative methods to preserve tree conservation areas include but are not limited to: re-design of the subdivision or site plan, use of retaining walls, alternate methods of construction (such as trex decking in place of concrete sidewalk), and arboricultural practices which include active tree preservation (such as root pruning of no more than 30% of the root zone with active tree preservation aftercare) performed under supervision of a certified arborist.
- f. Secondary tree conservation areas for Thoroughfares approved for fee-in-lieu payment shall be paid at a rate of 1.5 times the tax value of the land.
- g. Secondary tree conservation areas other than Thoroughfare areas approved for fee-in-lieu payment shall be paid at a rate equal to the tax value of the land.
- h. All fee-in-lieu payments shall be adjusted on an annual basis ~~using the percent change Dec-Dec column of the Consumer Price Index chart available through the US Dept of Labor. by the "All Items" December through December percent change for each year following the most recent property tax valuation.~~
- 3. All collected monies, including any income derived from such monies, shall be spent either for acquisition of lands where trees will be preserved or for tree planting. The City Council shall set forth specific eligible activities for tree preservation and tree plantings. All collected monies must be spent within the same open space fee zones from which the payments were collected.

Planning Commission action: Approved 19 June 2012

**Section 9.1.6.A. to be amended to read:**

“No tree disturbing activity shall take place in designated tree conservation areas except in conformity with the following:

- A. Within Zone 2 of Neuse River Riparian Buffers and in watercourse buffers in a -MPOD, permitted tree disturbing activities are allowed for:
  1. Any work that is ancillary to activities allowed by the North Carolina Division of Water Quality in Zone 1 **that is also approved by the City of Raleigh;**
  2. Any sanitary sewer installation when an existing permanent structure or any part of an existing permanent structure that is to remain on the site is within the width of the proposed permanent and temporary construction sanitary sewer easement plus 10 feet; and

3. More than 50% of a reach of sanitary sewer main will be over 12 feet deep.”

Planning Commission action: Approved 19 June 2012

Section 9.3.5.A.1 on page 9-27 should be removed based on redundancy:

Remove A.1 – it is repetitive (9.3.4.A)

~~“Any use, structure, or encroachment, including fill, which adversely affects the capacity of channels, floodways or drainage facilities or systems is prohibited.”~~

Planning Commission action: Approved 19 June 2012

Section 9.2.2.B.2c on page 9-11 should be amended to read:

“Apartments and Townhomes” to section 2.c

- i. For mixed use, nonresidential **apartments and townhouses**, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 10 pounds per acre per year to 3.6 pounds per acre per year.

Planning Commission action: Approved 19 June 2012

Section 7.1.2 on page 7-3 should be amended to read:

Reduce the standard from 1 visitor space for every five dwelling units to one parking space for every ten dwelling units.

Planning Commission action: Approved 26 June 2012

Section 7.1.3 on page 7-7 should be amended to read:

Increase the minimum bike parking from 3-4 as the selected rack design is a “U-shaped” rack; odd number spaces cannot be accommodated on these racks.

Staff also suggests some minor text edits to the definition of short- and long-term bicycle parking. Section 7.1.8 on page 7-12 should be modified to read:

A. Exemptions

In no case is a single use **or single lot** required to provide more than 30 bicycle parking spaces. **A mixed use facility shall not be required to provide more than 50 bicycle parking spaces.**

B. Required Types of Bicycle Parking Facilities

1. General Provisions

Bicycle parking may be provided through various types of facilities, provided the facility meets the following:

- a. Bicycle racks are securely anchored, are easily usable with both U-locks and cable locks and support a bicycle at two points of contact to prevent damage to the bicycle wheels and frame.
- b. Spacing of the racks shall provide clear and maneuverable access.
- c. Where a bike can be locked on both sides without conflict, each side can be counted as a required space.
- d. ~~Each required bicycle parking space must be at least two feet by six feet.~~
- e. Facilities may be placed on private property or within the public right-of-way. Facilities in the right-of-way must **comply with the Streets, Sidewalk, and Driveway Access Handbook.** ~~be approved by the Public Works Director.~~

2. Short-Term Bicycle Parking

**Short term bicycle parking** ~~Bicycle racks~~ must be publicly accessible **and convenient.** **Short term bicycle parking must** ~~and~~ be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.

3. Long-Term Bicycle Parking

**Long term bicycle parking provides employees, students, residents, commuters, and others who generally stay at a site for several hours a protected and secure place to park. Required long term bicycle parking must meet the following standards:**

- a. Long-term bicycle parking must be covered and weather resistant.
- b. **Long term bicycle parking must be located no more than 300 feet from the building entrance or 660 feet from a parking structure.**
- c. **Long term bicycle facilities must comply with the Bicycle Handbook.** ~~Required spaces can be in the form of a covered bicycle rack, in a locker, within a building, or within a parking structure.~~

Commission action: Approved 26 June 2012

Section 10.2.8.D.3 (new) on page 10-37 should be added to read as:

**"g. Upon acceptance of a completed application, staff will provide mailed notice to the State of North Carolina for any site plan located within the Metro Park Overlay District."**

Planning Commission action: Approved 26 June 2012

Section 10.2.5.E.4 on page 10-26 should be amended to read:

**"4. Action Following Planning and Development Department Decision**

- a. Following the date of the final action, notice of a decision on an administratively reviewed preliminary subdivision plan shall be provided as set forth in Sec. 10.2.1.C.6.
- b. Within **30** 20 days after the date of the decision on a preliminary subdivision plan, an appeal of the Planning and Development Department's action may be filed with the City Council as set forth in Sec. 10.2.11.

Planning Commission action: Approved 26 June 2012

**The Planning Commission recommends removing the requirement for a pre-application requirement for the following processes**

Commission action: Approved 26 June 2012 –

Waivers, Text changes and Rezonings

Planning Commission action: Approved 26 June 2012

Section 10.2.5.E.2.b. should be amended to read:

- i. That topography or other existing physical conditions of the property are such that compliance with the requirements under section or Chapter 8 would cause

an unusual and unnecessary hardship, or practical difficulties on the developer above and beyond what other developers would meet, or deprive the owner of reasonable use of the property.

Commission action: Approved 26 June 2012 –

### **Section 1.1 “External Manuals**

**The following external technical manuals are maintained by the City and referenced in this UDO.**

- 1. Raleigh Street Design Manual**
- 2. Raleigh Historic Development District Design Guidelines**
- 3. Public Utilities Handbook**
- 4. Guidelines for Land Disturbing Activity**
- 5. Solid Waste Services Design Manual**
- 6. Private Use of Public Spaces**

Planning Commission action: Approved 26 June 2012

Section 10.2.1.D.1.a on page 10-13 should be amended to read:

1. Neighborhood Meeting
  - a. A pre-submittal neighborhood meeting is required for all applications for a zoning map amendment, except where the City is the applicant. The applicant shall provide an opportunity to meet with **affected** property owners within or adjacent to the development site.

Planning Commission action: Approved 3 July 2012

Section 10.2.3.D.1.a on page 10-17 should be amended to read:

- 1. Planning and Development Officer Action**
  - a. At the direction of the City Council ,the Planning and Development Officer shall review the application for a UDO text amendment in accordance with Sec. 10.2.3.D and provide a report and recommendation to the Planning Commission **within 45 days of submittal of a completed application. The Planning and Development Officer may request additional time from the City Council.**

Planning Commission action: Approved 3 July 2012

Section 10.2.5.E.8.c on page 10-28 should be amended to read:

- "c. If all the requirements of paragraph b. above are met, the Planning and Development Officer shall permit only one **three year** extension, ~~not to exceed a time period of three years~~, calculated from the date the request for extension is **approved received** by the Planning and Development Officer.

Commission action: Approved 3 July 2012 –

#### F. Expiration of a Site Plan

1. A building permit must be obtained from the Inspections Department within three years from the date of site plan approval. The site plan shall expire ~~within~~ three years **from** the approval date of the site plan unless an applicant has been granted vested rights, or unless a valid building permit has been issued by Inspections Department. One two-year extension to submit a building permit **shall may** be granted by the Planning and Development Officer provided all of the following are met:

Planning Commission action: Approved 3 July 2012

Section 10.2.19.D.3 on page 10-58 should be amended to read:

- "3. Following the approval or conditional approval of a vested site plan, nothing in this section shall exempt such plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, **the UDO existing at the time of approval, and subsequent laws as permitted in subsection 5 and this UDO.**

Planning Commission action: Approved 3 July 2012

Section 8.3.4.C.5 on page 8-8 should be amended to read:

#### Stream crossing (8.3.4.C.5)

~~5. Street stubs at stream crossings must extend to the far side of the stream.~~

**5.a. When the entirety of the crossing is in the subdivision and when phased, the crossing must be in a single phase in its entirety.**

**5.b. When stubbing to the edge of the site, the stub street will be built to the furthest point possible without NCDWQ approval and a fee in lieu of**

**construction is paid for the remainder with any right of way dedication and slope easements necessary to build the connection.**

Planning Commission action: Approved 3 July 2012

Section 6.4.5.D on page 6-23 should be amended to read:

**2. Use Standards**

- a. No part of any building or structure in which animals are housed shall be closer than 200 feet from any existing residential use, except for property owned or occupied by an owner or operator of the riding stable.
- b. All horses connected with the riding stable shall be enclosed by fencing so that horses cannot run at large.
- c. Only one ~~mature~~ horse may be kept on a lot less than one acre. For lots from one to five acres in size, a maximum of three ~~mature~~ horses per acre may be kept. For lots greater than five acres, up to 10 horses per acre may be boarded if the setbacks as listed in paragraph d. below are increased to 200 feet from the property line.

Planning Commission action: Approved 3 July 2012

Section 9.4.4.D.2 and 9.4.4.J on pages 9-34 and 9-37 be removed.

**2. Buffer Zones along Trout Waters**

- a. Waters that have been classified as trout waters by the Environmental Management Commission must have an undisturbed buffer zone 25% of the buffer zone nearest the land disturbing activity, whichever is greater.
- b. The City may approve plans which include land disturbing activity along trout waters when the duration of the disturbance would be temporary and the extent of the disturbance would be minimal.

**J. Trout Buffers**

~~Without trout waters as shown on maps on file with the Inspections Department, the following additional regulations shall apply:~~

- ~~1. The 25 foot minimum width for an undisturbed buffer zone adjacent to designated trout waters required by Sec. 9.4.4.A shall be measured horizontally from the top of the bank.~~
- ~~2. Where a temporary and minimum disturbance is permitted as an exception by Sec. 9.4.4.A, land disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10% of the total length of the buffer zone within the tract to be distributed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of both the Director of the Division of Land Resources of the North Carolina Department of Environment, Health, and Natural Resources and the City Council.~~
- ~~3. No land disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth, as may be amended, in Title 15 North Carolina Administrative Code Article 28, Section .0211 "Fresh Surface Water Classification and Standards", in these waters.~~

Planning Commission action: Approved 3 July 2012

Sections 7.1.4 on page 7-8 should be amended to read:

- ~~1. A 20% reduction in the number of spaces is allowed for each affordable housing dwelling unit provided an operating bus transit stop is within a walking distance of 1,320 feet of the property boundary of the site.~~

Replace language with the following:

1. Require a minimum of 1 space per dwelling unit and visitor parking at a rate of 1 space for every 10 dwelling units.
2. Address revised facility fee through separate process and not incorporate into UDO.

Commission action: Approved 10 July 2012 –

Sections 10.2.4.F.2.f on page 10-21 and 10.2.4.F.5.f on page 10-22 should be amended to read:

"f. A recommendation by the Planning Commission shall include the adoption of a statement describing **whether how** the Planning Commission considers the action taken to be consistent with the Comprehensive Plan **and any other officially adopted plan that is applicable, and briefly explaining why the action taken is** reasonable and in the public interest.

f. Approval by the City Council shall include the adoption of a statement describing **whether how** the City Council considers the action taken to be consistent with the Comprehensive Plan **and any other officially adopted plan that is applicable, and briefly explaining why the action taken is ,** reasonable and in the public interest."

Planning Commission action: Approved 10 July 2012

Section 10.2.9.E on page 10-40 should be amended to read:

"E. Findings of Fact

Before a request for a special use permit is granted, the Board of Adjustment must find that all of the following are met:

1. The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO.
2. The proposed use is allowed as a special use in the respective zoning district (see Chapter 6).
3. The proposed use complies with any specific use standard listed in Chapter 6 without the granting of any variance to the specific use standard.
4. The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics.
5. Any adverse impacts resulting from the proposed use in the affected area is will be effectively mitigated or offset or the special use is denied.
6. ~~Any storage of combustible, hazardous, explosive or inflammable material to be sold, stored, or kept on the premises is effectively managed.~~
7. Access with respect to pedestrian, bicycle, and automotive safety, traffic flow, emergency service is adequate.
8. ~~Public safety, transportation, and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing and future development.~~
9. ~~Fenestration, Signage, materials and architecture are is suitable and appropriate.~~

10. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.
11. ~~Appropriate provision for recreational space and facilities has been made.~~

Planning Commission action: Approved 10 July 2012

Section 3.2.5 and 3.2.6 on page 3-8 and 3-9 should be amended to read:

#### **B. General Requirements**

1. The minimum percentage of windows and doors that must cover a ground story facade is measured between 0 and 12 feet above the adjacent sidewalk.
2. The minimum percentage of windows and doors that must cover an upper story facade is measured from top of the finished floor to the top of the finished floor above. When there is no floor above, upper story transparency is measured from the top of the finished floor to the top of the wall plate.
3. In a mixed use building, or general building where an urban frontage is applied, a minimum of 60% of the street-fronting, street-level window pane surface area must allow views into the ground story use for a depth of at least eight feet. Windows shall not be made opaque by window treatments (except curtains, blinds or shades within the conditioned space).
4. Glass shall be considered transparent where it has a transparency higher than 80% and external reflectance of less than 15%. Glass on upper stories may have any level of transparency and external reflectance.

Also, incorporate a definition for Transparency in chapter 12, Defined Terms.

“Transparency: The ability to transmit light so objects on the other side of the material are visible. As applied to windows, the transparent material must pierce the building façade with a minimum distance of four feet maintained free of building materials, shelving or other impediment so that views are provided into and out of the building.”

Planning Commission action: Approved 17 July 2012

Section 7.1.2.C on page 7-3 should be amended to incorporate a new section for Parking maximums to read as:

#### **“C. Maximum Surface Parking Provided**

**Except for single- and two-unit living or for uses providing 10 or fewer surface parking spaces, when the surface parking provided to serve the use exceeds 150% of the required parking ratios as specified in Section 7.1.3 of this UDO, one of the following measures to mitigate the additional impervious surface must be utilized.**

- (1) Detain stormwater runoff to pre-development levels for the 2-, 10- and 30-year storm event for the parking area above the maximum.**
- (2) Provide elevated solar powered arrays in lieu of required landscaping plantings for the parking area above the maximum. The solar arrays shall be installed above a minimum of 50% of the parking area above the maximum.**
- (3) All required interior landscaped islands as required in Section 7.1.7 of this UDO must have an average width of 20 feet, with no dimension less than 8 feet in size. Required trees must be installed every 50 feet on center, with minimum of 300 square feet of landscaped area per tree.**
- (4) An increase in tree conservation area of 5% of the property above the minimum requirement.**

Commission action: Approved 17 July 2012

Section 5.4.3.D.5 on page 5-16 should be amended to read:

If the City Council adopts a text change incorporating specific neighborhood built environmental characteristics and regulations into this section, an application to rezone property within the designated neighborhood study area to a -NCOD in order to apply the adopted built environmental characteristics and regulations may be accepted by the Department of Planning and Development within a four-year period following the adoption of the regulations. **The rezoning petition must be submitted and signed by at least a majority of the private property owners, that own a majority of the acreage within the NCOD area; in both instances, the City Council, at its discretion, may direct staff to accept a rezoning petition that does not contain 51% of the property owners as signatories on the petition. In this instance, the City would process the petition as the applicant.** Following the adoption of the initial -NCOD, the Department of Planning and Development may accept an application to expand a specific -NCOD and applicable built environmental characteristics and regulations for properties either located within the original neighborhood study area or contiguous to it.”

Section 10.2.4.E.5 on page 10-20 should be amended to read:

**"5. Additional Requirements for -NCOD Applications**

- a. Except for applications filed by the City or otherwise authorized by the City Council, the Planning and Development Department is instructed not to accept -NCOD applications unless the application meets all the following:
  - i. Is requesting that either at least a minimum of 15 contiguous acres be zoned -NCOD or that an existing -NCOD be extended. If allowed in the underlying zoning district, all uses in the civic use category ~~can shall~~ be excluded when determining the minimum 15 acre requirement; **however, such civic uses may be used in determining contiguity of the area.**
  - ii. Is signed by a majority of the property owners within the area proposed to be rezoned -NCOD.
  - iii. Is applied to an area where at least 75% of the lots are developed.
  - iv. It is located in an area in which the City Council has adopted into Sec. 5.4.3.D specific neighborhood built environmental characteristics and regulations.
- b. Within four years following the City Council adoption of specific neighborhood built environmental characteristics and regulations, the Planning and Development Department may accept an application rezone property to a -NCOD.
- c. Following the City's official acceptance of an application to rezone property to a -NCOD in accordance with Sec. 5.4.3, no construction permit shall be issued or subdivision or recombination be approved by the City during the pendency of the application to amend the Official Zoning Map unless the proposed construction or the proposed subdivision or recombination meets all of the provisions of the existing zoning district, and also the adopted neighborhood built environmental characteristics and regulations contained in Sec. 5.4.3.D for the proposed -NCOD.
- d. If the City Council accepts a rezoning petition to apply a Neighborhood Conservation Overlay District, staff shall provide direct mailed notice to all property owners in the proposed overlay district. Additional mailed notice shall be provided in accordance with Section 10.2.1.C.1.b of this UDO.**

Planning Commission action: Approved 17 July 2012
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Section 10.2.8 on page 10-38 should be amended to insert a definition of construction permit in chapter 12 to read as follows:

**Construction Permit:** A Construction Permit is a zoning permit, grading permit, right-of-way permit, driveway permit, Tree Conservation Area permit and utility plan permit.

Planning Commission action: Approved 17 July 2012

Section 10.2.8.D.4 on page 10-38 to read:

- j. ~~There shall only be one two year extension permitted, not to exceed a time period of two years, calculated from the date the request for extension is approved by the Planning and Development Officer, of receipt by the Planning and Development Officer of the original written request for extension."~~
- k. The approval process for site plans of construction drawings, site review and building review ~~may at the option of the applicant be done sequentially as listed or combined all in one review process or in two different review processes provided that order of these processes are not reversed.~~
- l. ~~may at the option of the applicant be done sequentially as listed or combined all in one review process or in two different review processes provided that order of these processes are not reversed.~~

F. Expiration of a Site **Review** Plan

1. A building permit must be obtained from the Inspections Department within three years from the date of site plan approval. The site plan shall expire within three years of the approval date of the site **review** plan unless an applicant has been granted vested rights, or unless a valid building permit has been issued by Inspections Department. One two-year extension to submit a building permit may be granted by the Planning and Development Officer provided all of the following are met:

- a. A written request for an extension has been made to the Planning and Development Officer prior to the expiration period.
- b. Unconstructed portions of the approved site **review** plan conform to all ordinances, laws, City policies, and provisions of the Comprehensive Plan and other City Council adopted plans in effect at the time of the requested extension.
- c. Adjacent streets have not been reclassified the Comprehensive Plan.
- d. The plan addresses the adequacy of public facilities and services such as stormwater, water and sewer lines, streets, fire, public safety, and trash collection.

- e. There shall only be one extension permitted, not to exceed a time period of two years, from the date of receipt by the Planning and Development Officer of the original written request for extension.
- f. Within four years after the issuance of the first building permit for the site plan, the construction of the entire site plan must be completed unless an applicant has been granted vested rights. Failure to complete construction within this specified time frame shall automatically void the approved site plan for which no building permits have been issued.

Planning Commission action: Approved 17 July 2012

Section 10.1.4.B.16 on page 10-5 should be amended to read:

“16. Review and act upon proposals for restoration, **alteration**, reconstruction, relocation, demolition, or new construction within a historic overlay district, pursuant to procedures established in this UDO, and for proposals for alteration, reconstruction, restoration, relocation, new construction, or demolition of designated Historic Landmarks outside a historic overlay district, pursuant to procedures outlined in this UDO.”

Planning Commission action: Approved 24 July 2012

Section 2.4.2.F on page 2-24 should be amended to read:

F1	From primary street	Must be located to the rear of the house				
F2	From side street	20'	20'	20'	20'	20'
F3	From side lot line	10'	<b>5' 10'</b>	<b>5' 10'</b>	<b>5' 10'</b>	<b>5' 10'</b>
F4	From rear lot line	10'	<b>5' 10'</b>	<b>5' 10'</b>	<b>5' 10'</b>	<b>5' 10'</b>
F5	From alley	4' or 20'	4' or 20'	4' or 20'	4' or 20'	4' or 20'
F6	Building separation	35'	35'	20'	16'	16'

Planning Commission action: Approved 24 July 2012

Section 5.2.2 on page 5-5 should be amended to read:

## 2. Impervious Surface Coverage

Excluding streets, impervious surface areas may not be added so that the impervious surface lot coverage exceeds **45 60%**. Impervious surface coverage greater than 30% but less than **45 60%** of the lot is allowed

when **identified pollutants (such as nitrogen and/or phosphorous) are reduced by a minimum of 25%.** all of the following are met:

**3. Treatment of Water Quality**

**a. Tree Inventory**

i. An inventory of existing trees, 10 inches DBH or greater, is shown on the site plan when trees are located within a protective yard.

ii. At a minimum, the inventory must contain the scientific name and caliper of all trees identified on the inventory.

b. Report A written report is submitted with the site plan identifying any tree on the inventory which is to be removed or its critical root zone disturbed.

**c. Replacement**

i. If grading or tree removal is proposed to occur in a protective yard, a detailed planting plan using primarily indigenous species not less than 3½ inch caliper or more than six inch caliper for a total of at least one-half the diameter of trees removed or graded must first be submitted to and approved by the City.

ii. The plan must provide equal or greater reduction of the perceived intensity of the site or surrounding area than that which would have been achieved if grading, tree removal, and impervious surfaces in excess of 30% were not undertaken.

iii. When replacements would overcrowd the particular area to be replanted, the owner may submit alternative measures for consideration for:

a) Replacing elsewhere on the site where more appropriate; or

b) Replacing off site where reforestation is desired, and easements can be obtained.

iv. No alternative measure shall lessen any other landscaping requirement of this UDO.

v. The provisions of this subsection do not apply to the removal of dead, damaged, or diseased trees caused by natural conditions.

Section 9.2.3.B.1.j on page 9-20 should be amended to read:

"j. Stormwater control facilities and stormwater outfalls shall meet the requirements of Sec. 9.2.3.C.2 **if there is no feasible alternate location.**"

Planning Commission Action:

Planning Commission action: Approved 31 July 2012

Section 9.1.4.B.1.a. on pages 9-5 and 9-6 should be amended to read:

**1. GENERAL REQUIREMENTS**

- a. The approved alternate meets the intent of the tree conservation regulations.
- b. Except for an alternate granted in accordance with subsections 2.a and 2.g below, the approved Alternate must be at least the same size area as the thoroughfare tree conservation area required in Sec. 9.1.4.B.1.a.
- c. Unless otherwise stated, the alternate must meet the requirements of Sec. 9.1.4.C. and the requirements for secondary tree conservation areas in Sec. 9.1.4.E.
- d. Except for an alternate granted in accordance with subsection 2.d below, the approved Alternate must be either uniformly 50-feet wide, or be an average width of 50-feet, with a minimum width of 32 feet and a maximum width of 100 feet.
- e. The approved alternate shall be ~~solely~~ **primarily** comprised of native tree species.
- f. Neuse riparian zone 1 cannot be approved as an alternate tree conservation area.
- g. The total amount of tree conservation area provided with application of an alternate area cannot be less than the total amount required without application of an alternate.
- h. For consideration of an Alternate in accordance with subsections 2.d., 2.e., and 2.f below, the applicant shall submit a written report prepared by a North Carolina Registered Forester. This report shall provide an analysis of compliance with these regulations.
- i. More than one administrative alternate can be approved, provided each alternate location is at least 4000 square feet in size.

**2. ADMINISTRATIVE ALTERNATES**

- a. The proposed alternate area is 1.3 times the size of the thoroughfare tree conservation area required in Sec. 9.1.4.B.1.a. Other secondary tree conservation areas required prior to application of this alternate cannot be reduced with the application of this alternate.
- b. The proposed alternate area is a continuous stand of trees adjoining Neuse River Riparian Zone 2 with a ~~uniform~~ width of **25 feet and an average** of 32 feet.
- c. The proposed alternate area is a stand of trees that shares a common boundary with a previously-recorded tree conservation area deemed healthy on an adjacent property. The proposed alternate shall abut at least 75 percent **or 100' of the common boundary** of the existing previously recorded tree conservation area, **whichever is less.**
- d. The proposed alternate area is a fully stocked stand of trees when the required thoroughfare tree conservation area is overstocked or under

- stocked as defined by: Gingrich Stocking Chart for Upland Hardwood Forests, Westvaco Loblolly Pine Stocking Chart, stocking charts in the current edition of the Forester's Field Handbook published by the N.C. Division of Forest Resources.
- e. The proposed alternate is a fully stocked stand of trees comprised of dominant and co-dominant species of a higher species value rating than the dominant and co-dominant species comprising the required thoroughfare tree conservation area that is also fully stocked. Dominant and co-dominant species value ratings are defined in the "Tree Species Ratings for Raleigh Tree Conservation Areas."
  - f. The proposed alternate is **clearly** a healthier and more viable stand of trees than the required thoroughfare tree conservation area as verified in a comprehensive comparative report that provides silvicultural and arboricultural data prepared by a North Carolina Registered Forester.

Planning Commission action: Approved 31 July 2012

**3. Section 9.1.5.A. Comprehensive Plan policy for Heritage trees**

This item was discussed on June 19<sup>th</sup> in conjunction with comment D.18. The Planning Commission directed staff to draft a policy that provides guidance for champion trees located on properties with an urban frontage.

Insert into Comprehensive Plan, policy in the Urban Design element under "*The Appearance and Function of Raleigh's Corridors.*"

**"Policy UD 3.12: When either heritage or champion trees are located adjacent to Urban Thoroughfares or Main Streets, the application of frontage which would encourage the removal or destruction of the tree is discouraged."**

Commission action: Approved 31 July 2012

Section 10.2.19C.3 on page 10-58 should be amended to read:

**"C. City Council Action**

1. Following notice as required in Sec. 10.1.8, the City Council shall hold a quasi-judicial public hearing as set forth in Sec. 10.2.1.D.2.
2. The City Council may impose conditions and terms on any site plan for which a vested rights hearing has been requested by the landowner, including site plans which in the absence of such a request from the landowner would not have been reviewed otherwise by the City Council.
3. **Before a request for a vested right is granted, the City Council must find that all of the following are met:**

- a. The staff approved site plan or plot plan complies with all applicable provisions of this UDO and other applicable technical requirements of the City.
- b. If the staff approved site plan or plot was conditionally approved upon the obtaining of any governmental approval and or street closing, such governmental approvals and street closings were in fact obtained.
- c. Access with respect to pedestrian, bicycle, and automotive safety, traffic flow, emergency service is adequate.
- d. The lot upon which the site plan or plot plan is located complies with approved subdivision plans for the site.
- e. The site plan or plot plan coordinates with existing and planned public facilities, such as and without limitation:
  - i. stormwater drainages structures
  - ii. public utilities
  - iii. street and sidewalk and on-street parking
  - iv. parks greenways and governmental recreational facilities
  - v. fire stations and community service facilities
  - vi. trash collection
  - vii. transit stops and facilities.

~~The review of and conditions imposed upon a site plan shall be the same as those made for a site plan that the Planning and Development Officer is required to review.~~

- 4. Approval of vested rights site plan with the condition that a variance or special use permit be obtained shall not confer a vested right unless and until the necessary variance or special use permit is obtained. In all other instances, a site plan shall be deemed vested upon approval by the City Council. The City Council shall not require landowners to waive their vested rights as a condition of approval of a site plan.

Planning Commission action: Approved 31 July 2012
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Section 10.2.9.H.1 on page 10-41 should be amended to read:

**"H. Expiration**

1. A special use permit shall expire after **one year six months** from the date of approval by the Board of Adjustment unless a completed building permits application **is submitted or a zoning permit is submitted when no building permit is required**, including payment of all fees has been filed by the applicant and accepted by the City.
2. Any appeal of the issuance of the special use permit to Superior Court shall freeze the running of this **one year six month** period from

commencement of the legal challenge until the end of all appeals. Once the use is constructed, the special use permit runs with the land and does not expire except:

- a. When the Board of Adjustment conditioned the special use permit to a limited defined time period; or
- b. When the special use permit is revoked in accordance with Sec. 10.2.1.D.2; or
- c. When the special use is changed to another use for more than 30 days, other than that for which the special use permit was issued, or the special use is discontinued or ceased for a continuous period of 365 days or more without the re-approval of the Board of Adjustment. Without the re-approval of the Board of Adjustment, the special use permit is null and void, and continuation of the special use is a violation of this UDO.

Planning Commission action: Approved 31 July 2012

Section 4.6.1.A.3 on page 4-10 should be amended to read:

**“A. Single Entity**

1. Each CMP District must be under the control of a single entity, whether a governmental, **hospital medical college or university higher learning educational facility**.
2. Each CMP District must either have a minimum site area of five acres or one or more contiguous City blocks.
3. In the event that a portion of the property zoned CMP District is sold to a third party who is not a governmental, **hospital, medical college or university higher learning facility** (thereby becoming non-compliant with this Article), the non-compliant property must be rezoned. **The third-party property owner shall submit a petition and pursue rezoning the property not owned by a governmental, medical or higher learning facility within six months of the sale of the property.**

Commission action: Approved 31 July 2012

Section 8.3.6 on page 8-11 should be amended to read:

**“Administrative Design Adjustment Findings**

The Public Works Director may in accordance with Sec. 10.2.18 approve a design adjustment, subject to the following findings:

- A. The approved design adjustment meets the intent of this Article.
- B. The approved design adjustment complies with the Comprehensive Plan and adopted City plans.

- C. The approved design adjustment does not increase congestion or compromise safety.
- D. The approved adjustment does not create any lots without direct street frontage.
- E. **The design adjustment** ~~Cross access or creation of a stub street~~ is deemed **reasonable impractical** due to one or more of the following:
  - 1. Topographic changes are too steep;
  - 2. The presence of existing buildings, streams, other natural features;
  - 3. Site layout of developed properties;
  - 4. Adjoining uses or their vehicles are incompatible; or
  - 5. Strict compliance would pose a safety hazard.
- 6. Does not conflict with an approved or built roadway construction project adjacent to or in the vicinity of the site.**
- F. **No design adjustment shall be approved when the City Council has authorized a roadway project in the vicinity, where the roadway design has not yet been finalized.”**

Planning Commission action: Approved 31 July 2012

Section 4.7.6. on page 4-14 be added for Master Plan Amendments (new)

Any amendment to an approved PDD master plan, including those approved prior to the application of the UDO, shall follow these procedures.

A. Administrative Amendments

Staff shall administratively approve master plan amendments that propose any of the following alterations.

1. An increase **or decrease** to the allowable residential density, **total number of dwelling units** not to exceed ten percent.
2. **An increase or decrease to the minimum required non-residential square footage or maximum permitted non-residential square footage, not to exceed ten percent.**
3. An increase to allowable height (as measured in feet), provided the increase does not exceed the maximum number of feet permitted by story in the height categories contained within section 3.3. Staff may not administratively approve an increase in number of stories as specified in the master plan.
4. A transfer of ~~building square footage~~, non-residential floor area **or** residential dwelling units, **or building type** from one area to another, not to exceed a twenty percent maximum for each standard.
5. Minor adjustments in location of building, parking and open space areas. A minor adjustment shall be a modification in orientation or distance to property line; however, the adjustment shall not exceed 100 feet in

distance from the approved location, and shall not be any located any closer than 50 feet to the boundary of the Planned Development district.

**However, where a building or parking area is shown on the approved master plan within 50 feet of a property line, the building or parking area adjustment may not be located any closer to the property line than as shown on the approved Master Plan.** An adjustment to the location of transit facilities is permitted, provided the adjustment occurs prior to the recordation of the transit easement.

6. An exchange of open space area, provided the exchanged properties are of like acreage, value and utility and that no tree conservation or open space map has been recorded for the requested exchanged properties with register of deeds office in the county where the property is located.
7. An exchange of above ground stormwater control facilities of like size. Staff may not administratively approve the relocation of an above ground stormwater facility to a location closer than 50 feet from the boundary of the Planned Development district boundary.
8. **A relocation of access points, driveways or sidewalks either within or outside of the public right-of-way with the concurrence of the Transportation Division.**
9. **A relocation of a fence, wall, sign or utility. Fences or walls required for transition areas or buffer yards may not be removed or relocated to an area that conflict with the buffering requirement.**
10. Any requirement associated with a permitted change must be shown on the master plan. By example, if a ten percent increase in density requires a different street cross section, the street cross section must be updated on the street and block plan.

#### B. Non-Administrative Amendments

Any other amendment not listed in 4.7.6.A shall be subject to the rezoning process specified in section 10.2.4.

#### C. Existing Master Plan Documents

All Planned Development Master Plans in existence prior to the adoption of this UDO shall not be considered non-conforming; these previously approved master plans may be construed **in accordance with the approved master plan as approved**, not notwithstanding **conflicting provisions in this the UDO**.

#### D. Committed Elements

**Where a master plan specifies certain committed timed elements, the applicant may request an extension for up to one year may be granted by the administration provided development within the PDD or in the vicinity has not created the need for the committed timed elements.**

Staff also recommends a minor change to subsection M.2 on page 4-13. The alteration would alleviate potential confusion with a defined term.

**"2. The All cost of replacement costs shall be borne by the homeowners' association."**

Planning Commission action: Approved 31 July 2012

Section 8.3.4.B.2 on page 8-8 should be removed.

B. Connectivity Required

1. Proposed streets must be interconnected and must connect with adjacent streets external to the subdivision in order to provide multiple routes for pedestrian and vehicle trips from, to and within the subdivision
2. ~~Any residential subdivision with more than 25 lots must provide at least two points of vehicular ingress and egress from existing and surrounding streets.~~

Planning Commission action: Approved 31 July 2012

Correction of mathematical errors in the cross sections has been identified. Additionally, it is suggested that median widths for the Major Streets in section 8.4.6 be increased by one foot above the previously-approved width of sixteen feet. A median width of 17 feet on these Major Streets would align with NCDOT standards.

**Recommendation:** The affected street cross sections are attached to this report with the proposed alterations.

Planning Commission action: Approved 31 July 2012

Sections 10.2.2.D.3, 10.2.3.D.3 and 10.2.4.F.3 on page 10-15 should be amended to read:

**"3. Authorization for Public Hearing by City Council**

- a. Following Planning Commission recommendation or expiration of the applicable Planning Commission review period without a recommendation, the City Council shall **conduct determine** if a public hearing. **Notice of the public hearing shall occur within 60 days of receiving the request from the Planning Commission.** ~~should be scheduled to hear comment on the rezoning application.~~

- b. **Notice of the public hearing** If the City Council chooses to hold a public hearing, notice shall be given in accordance with Sec. 10.1.8.

Planning Commission action: Approved 31 July 2012

Sections 4.6 on page 4-10 and 7.1 on page 7-3 should be amended to incorporate the following:

1. Require a pedestrian circulation plan for Campus District master plans in section 4.6
2. Increase the short-term bicycle parking required for the *Group Living: Dormitory, Fraternity, Sorority* category. The existing regulation is four spaces required. Increase the standard to six spaces required.

Planning Commission action: Approved 7 August 2012

Section 10.2.8.D.3 on page 10-37 should be amended to read:

- d. Following site review, the Planning and Development Department shall approve, approve with conditions that bring the site review plan into conformance with this UDO and other applicable technical requirements of the City, or deny the site review plan. The Planning and Development Department shall keep written records of any action taken.
- e. **A sign shall be posted by the property owner on the property for thirty continuous days, beginning the day of issuance of a zoning permit or site permit by the property owner or the next working day, for the following administrative approvals:**
  - i. where the new building is 25,000 square feet or more in size, or any addition that represents an increase of more than 10% of the building area or 25,000 square feet whichever is greater; and
  - ii. where the property of the approved administrative site plan is located within 100 feet of a property that is zoned R-1, R-2, R-4, R-6 or R-10.
- e.f. Notice of a decision on an administratively reviewed site plan shall be provided within three days following the date the application was decided, as set forth in Sec. 10.2.1.C 6.
- f.g. An appeal as set forth in Sec. 10.2.11 shall be filed by persons who received notice of the decision within 30 days of permit issuance or when a permit is not issued, the decision of approval or denial; this time period is applicable to all representatives of such notified persons, including without limitation their tenants and option holders. For all other persons with standing, notice of appeal shall be filed within 30 days after the initiation of site work activities.

Planning Commission action: Approved 7 August 2012

**Definitions**

Recommended definitions for Chapter 12.

**Active Open Space**

Improvements to accommodate recreation or activity, such as play fields and play courts, **excluding sidewalks and greenways**.

**Caliper**

The diameter of nursery-grown trees measured at a point on the tree six inches above soil line for trees up to 4 inches caliper, or measured at a point on the tree twelve inches above soil line for trees greater than four inches caliper. Caliper is the measurement used to specify sizes of new or replacement *trees* planted to meet the landscaping requirements of this Code.”

**Courtyard**

An open area devoid of buildings, which is partly or wholly surrounded or enclosed by buildings.

**Co-dominant trees**

Trees with diameters in the upper range of those present but not the largest, with well developed medium size crowns that are crowded at the sides. Crowns intercept direct sunlight across the top and only at the tips of upper side branches.

**Developer**

A site planner or subdivider.

**Dominant trees**

Trees with the largest diameters in the stand, with large well-developed crowns that extend above the general canopy layer. Crowns intercept direct sunlight across the top and along the sides of the upper branches.

**Decorative fence**

An open or solid fence or wall which matches or complements the adjacent primary structure(s) on the site. **This shall not include a fence that is required to satisfy any provision of this UDO, any retaining wall, any security fence such as chain link, and shall not be available for purchase in stores.**

**Development**

Any site plan or subdivision.

**Development-related improvements**

Includes streetscape, sidewalk, street, storm drainage, bicycle infrastructure, greenways, transit facilities, utilities, pavement, curb and gutter, turning lanes, acceleration lanes, and deceleration lanes.

**Front Wall Plane**

The building façade facing the primary street right-of-way. If this façade contains wall articulation, the entire length of the articulated wall shall constitute the front wall plane. **Bay windows shall not be considered part of the front wall plane.**

**Governmental entity**

Any department, commission, agency, or other instrument of the Federal, State, County and/or municipal government.

**Higher learning educational facility**

An institution other than a **post secondary school for skilled trades** ~~trade school~~ that provides full-time or part-time education beyond high school.

**Hospital**

One or more buildings or structures located on the same lot primarily devoted to the rendering of health, medical and nursing care to persons on an in-patient basis, and which provide facilities and services of a scope and type customarily provided by hospitals, which may include facilities for intensive care and self-care; clinics and out-patient facilities; clinical, pathological and other laboratories; health care research facilities; laundries; training facilities for nurses, interns, physicians and other staff members; food preparation and food service facilities; administration buildings, central service and other administrative facilities; medical office facilities owned and operated by the hospital for physicians who are members of the hospital medical staff; and other general hospital facilities.

**Indigenous/locally adapted species**

Plant and animal life forms which are naturally found ~~in throughout~~ the State of North Carolina.

**Loading Area**

An area which contains trash collection areas or dump master type refuse containers, outdoor loading and unloading spaces, docks, outdoor shipping and receiving areas, outdoor bulk storage of materials or parts thereof, and outdoor repair areas of any service stations, safety equipment inspection stations, or dealers.

**Locally adapted species**

Non-native species of animal and plant life that are adapted to the climatic conditions of North Carolina.

### **Metro Park**

~~The following parks: A State-owned regional park, such as William B. Umstead State Park.~~

### **Natural Protective Yard**

A landscaped yard area ~~that which~~ contains no buildings, vehicular surface area, loading, storage or display service areas, ~~in which~~ no tree **disturbing activity** or grading shall take place unless in accordance with an approved tree removal permit. No tree removal permit shall be issued if the cumulative grading and tree removal exceeds 30% of any natural protective yard.

### **Open Space Area**

Primarily vegetated areas where development is restricted and no additional impervious surface may be placed without first obtaining a permit from the city. The following are open space areas: **active or passive open space areas**, greenways and public parks, natural protective yards set forth in conditional use zoning districts, and permanently protected undisturbed open space areas.

### **Passive Open Space**

A passive recreation area is generally an undeveloped space or environmentally sensitive area that requires minimal development. These open space areas can include pedestrian or bicycle pathways or greenways.

### **Pedestrian Area**

**An area used primarily for walking, such as a sidewalk or greenway.**

### **Protective Yard**

A landscaped yard area which contains no buildings, vehicular surface area, loading, storage or display service areas. For street protective yards, driveways and sidewalks necessary to serve the development may be permitted, provided that they are perpendicular to the protective yard. Includes transitional protective yard, street protective yard and Zone A transition zone.

### **Queuing Area**

**The space devoted to vehicle waiting areas associated with a drive through or drive up facility. The queuing area begins at the point of service, such as a drive through window.**

### **Refereed Journal**

Publications reviewed by expert readers or referees prior to the publication of the material. After reading and evaluating the material, the referee informs the

publisher if the document should be published or if any changes should be made prior to publication. Refereed materials are significant to the research and the literature of most academic fields because they assure readers that the information conveyed is reliable and timely.

#### **Replacement Cost**

Either the median value based Square Foot Costs established by the most recent edition of Building Construction Cost Data published by R.S. Means, or the most recent tax value for building as reported in the county tax office where the property is located. The property owner shall decide which of the two methods for determining replacement cost is to be used.

#### **Stepback**

The horizontal distance of a building façade that is recessed on a horizontal plane.

#### **Stormwater control devices**

The overall design, construction and maintenance of one or more devices and measures and associated drainage easements, conduits, inlets, channels, pipes and ditches, level spreaders, filters, buffers, bioretention areas, sand filters, detention basins, swales, wetlands, and ponds **or any other City-approved best management practice** necessary to collect, convey, store, treat and control stormwater runoff and pollutants.

#### **Street furniture**

Physical improvements required by approved streetscape plans ~~that include~~ **including but not limited to:** benches, bicycle racks, pedestrian lighting, trash receptacles, planters, flower boxes/pots, or other objects constructed or used outdoors.

#### **Streetscape Plan**

#### **Thoroughfare**

A street delineated as a major thoroughfare or a minor thoroughfare on the Comprehensive Plan, or a major access corridor. Major thoroughfares include: (1) principal arterials, which are either gateways, freeways, or expressways; (2) secondary arterials; ~~or~~ (3) other major thoroughfares, **or (4) any Major Street identified in this UDO.**

#### **Utility Service Plan**

A plan associated with a Planned Development Master Plan that provides information for mail distribution and solid waste collection.

## **Vehicular Display Area**

### **Wall plate**

A structural element, usually horizontal, situated along the top of a wall at the level of the eaves for bearing the ends of joists or rafters.

Planning Commission action: Approved 7 August - 2012

Section 8.3 beginning on page 8-6 should be amended to read:

#### **Sec. 8.3.1. Intent**

1. The intent of the maximum ~~block length~~, block perimeter and connectivity regulations is to provide a well-connected street network.
2. Large blocks ~~lengths~~ with limited connectivity **discourage walking**, contribute to street congestion and add driving distance that can negatively impact emergency services. New streets should be designed to consider future development.
3. The access regulations are intended to provide safe and convenient vehicular and pedestrian access **within developments and** between adjacent developments and to lessen traffic congestion. Pedestrian, bike and vehicular access should be safe, direct and convenient.
4. Adjustments to the requirements of this Article may be appropriate where topographic changes are too steep, where existing buildings, streams **or** other natural features **or man-made obstructions** or site layout of developed properties prevent cross access, where adjoining uses are incompatible, or where strict compliance with this UDO would pose a safety hazard.

#### **Sec. 8.3.2. Blocks**

##### **A. Block Length and Block Perimeters**

###### **1. Applicability**

The ~~block length and~~ perimeter standards apply to preliminary **subdivision** plans, final plats and **site plans** submitted in accordance with Sec. 10.2.5 and Sec. 10.2.8.

###### **2. Block Standards**

- a. Residential blocks must have sufficient width to provide for two tiers of residential lots, except where single tier lots are required to accommodate single-loaded streets where across from a public park or open space, to allow for unusual topographical conditions, or when adjacent to the outer perimeter of a subdivision.

- b. The following table establishes the maximum block perimeter, ~~maximum block lengths~~ and a maximum length for a dead end street by zoning district. In the event that a single block contains more than one zoning district, the most restrictive requirement applies.

<b>Block Perimeter (max)</b>	<b>Block Length (max)</b>	<b>Dead-End Street (max)</b>	
<i>R-1, R-2, R-4, R-6: By Average Lot Size on Block</i>			
40,000+ sf	<del>6,000'-8,000'</del>	2,640'	750'- <b>1000'</b>
20,000 -	<del>3,330'-6,000'</del>	1,320'	600'- <b>750'</b>
39,999 sf			
10,000 -	<del>3,000'-5,000'</del>	1,100'	400'- <b>600'</b>
19,999 sf			
6,000 - 9,999 sf	<del>2,400'-4,500'</del>	880'	300'- <b>550'</b>
up to 5,999 sf	<del>2,000'-3,000'</del>	660'	200'- <b>400'</b>
<i>R-10: By District</i>			
R-10	<del>2,000'-2,500'</del>	660'	200'- <b>300'</b>
<i>Mixed Use Districts</i>			
DX-	<del>1,760'-2,000'</del>	440'	Not allowed
RX-, NX-, CX-	<del>2,000'-3,000'</del>	660'	300'- <b>400'</b>
<i>OX-; 3 or 4 stories</i>			
RX-, NX-, CX-, OX-, 5 or more stories	2,500		<b>300'</b>
<i>Special Districts</i>			
CM, AP	n/a	n/a	Not allowed n/a
IH	<del>4,000'-6000'</del>	1,320'	400'
R-MH	<del>2,000'-3,000'</del>	660'	Not allowed <b>400'</b>
CMP, PD	4,000' or based on master plan	<del>1,320' or based on master plan</del>	400' or based on master plan

#### B. Block Measurement

- A block is bounded by ~~a street~~ **public right of way** (not including an alley). All **public rights of way proposed as part of a development must be improved with a street** that meets the requirements of Chapter 8.

2. Block perimeter is measured along the ~~centerline of intersecting streets that encompass the block and block length is measured from centerline to centerline of intersecting streets~~ edge of the property adjoining the public right of way, except for the measurement of cul-de-sac length, which shall be measured from intersecting centerlines.
3. The maximum block length and perimeter may be extended by 25% where the block includes a pedestrian passage (see Sec. 8.4.8) or an alley (Sec. 8.4.7) that directly connects the two streets on each opposing block faces. Such connections may utilize dead end streets, such as connections between two cul-de-sacs.
4. A block may be broken by a civic building or open lot, provided the lot is at least 50 feet wide and deep and provides a pedestrian passage meeting the requirements of Sec. 8.4.8 that directly connects the two streets on each block face.
5. Within a single phase of any subdivision or development, individual block perimeters may exceed the maximum by 25 percent provided that the average of all block perimeters in the phase does not exceed the maximum.
6. The Public Works Director may waive the block perimeter requirements or maximum cul-de-sac length consistent with Sec. 8.3.6, when steep slopes in excess of 25%; freeways, waterways, railroad lines, preexisting development, tree conservation areas, stream buffers, cemeteries, open space, or easements would make the provision of a complete block infeasible, or does not advance the intent of this Article.
7. Where the block pattern is interrupted by public parkland, including greenways, that is open and accessible to the public, pedestrian access points shall be provided with a minimum spacing equal to one half the maximum block perimeter.

#### Sec. 8.3.3. Lots

##### A. Lot Frontage

Every lot shall have frontage upon a public street, except those developments which were approved for private streets prior to the effective date of this UDO. Except as otherwise stated in this UDO, all lots must front on a street that has a pavement width of at least 20 feet.

##### B. Lot Arrangement

1. Lots shall be subdivided to permit conformance with all laws and ordinances, and to ensure for orderly urban growth, proper building arrangement, and to provide City services and facilities.
2. Lot dimensions shall provide for the potential development of all lots, and future compliance with the development standards of this UDO.
3. ~~Lot arrangement shall be in accordance with the Comprehensive Plan.~~

#### Sec. 8.3.4. Subdivision Access

A. Open Access

Subdivisions must provide roadways that remain permanently open to the public and provide community-wide access as part of an overall connected street network.

B. Connectivity Required

1. Proposed streets must be interconnected and must connect with adjacent streets external to the subdivision in order to provide multiple routes for pedestrian and vehicle trips from, to and within the subdivision
2. Any residential subdivision with more than 25 lots must provide at least two points of vehicular ingress and egress from existing and surrounding streets.

C. Stub Streets

1. Where a ~~subdivision~~ development adjoins unsubdivided land, stub streets within the new subdivision shall be extended to the meet maximum block length and perimeter standards of Sec. 8.3.2.
2. The stub street must be extended to the boundary of the abutting property to the point where the connection to the anticipated street is expected.
3. **Stub streets must be located so that the portion of block perimeter located on the subject property does not exceed 50% of the applicable block perimeter maximum. No stub street longer than half the maximum block length for the district is allowed. (insert diagram in UDO)**
4. If a stub street exists on abutting property, the street system of any new subdivision must connect to the stub street to form a through street.
5. Street stubs at stream crossings must extend to the far side of the stream.
6. Where a stub street is provided, a barricade using a design approved by the Public Works Director must be constructed at the end of the stub street, pending the extension of the street into abutting property. A sign noting the future street extension shall be posted at the applicant's expense.
7. The Public Works Director may eliminate the requirement for a stub street consistent with Sec. 8.3.6, when:
  - a. Steep slopes in excess of 25%; freeways, waterways, railroad lines, preexisting development, tree conservation areas, stream buffers, cemeteries, open space, or easements would make the provision of a stub street infeasible; or
  - b. A high intensity nonresidential use is located adjacent to a proposed residential subdivision.

Section 7.1.2.c. on page 7-5 should be amended to remove the requirement of 3.5 spaces for Parks, Open Space and Greenways category listed. The additional vehicle parking standard for facilities would remain.

Sections 7.3.8.B, 7.3.9.B and 7.3.10.B should be amended to include:

**"Building Setback (min) 30 feet"**

Section 5.2.2 on page 5-5 should be amended to read:

## 2. Impervious Surface Coverage

Excluding streets, impervious surface areas may not be added so that the impervious surface lot coverage exceeds 45% **in areas that drain into the Metro Park.** Impervious surface coverage greater than 30% but less than 45% of the lot is allowed **but only** when identified pollutants (such as nitrogen and/or phosphorous) are reduced by a minimum of 25%.

## Demolition by Neglect

Language is included in chapter 11 regarding demolition by neglect. This is an existing process applied in the Historic Overlay District and for Historic Landmarks. Staff proposes moving this section to chapter 10, as opposed to chapter 11. Staff is also proposing some modifications to the existing language that would ~~introduce a hearing board that reviews claims of hardship associated with demolition by neglect.~~

~~This Hardship Review Panel would assess the amount of damage and review the cost of improvements against the value of the property. The Historic Development Commission would have the authority to provide direction for allocation of funds for repairs and for developing a plan for the relief of economic hardship, if determined by the Hardship Review Panel. add an additional calculation to the determination of hardship provided by the Hardship Review Panel. The panel would evaluate the property to define what level of capital investment the property could sustain without hardship. That figure would be used by the Historic Development Commission as an additional element in preparing its Plan for Relief of Economic Hardship. Language is also proposed to allocate the costs for hiring the experts on the Hardship Review Panel.~~

**Recommendation:** Staff recommends moving this section to article 10.2.17. The subsequent sections would all be renumbered.

## **Demolition by Neglect of Historic Landmarks and Structures Within Historic Overlay Districts**

### **Sec. 10.2.17. Applicability**

- A. The purpose of this section is to prevent the gradual deterioration of historic resources due to a failure to provide normal and customary maintenance such that the unique attributes and character of the resource or historic district might be lost due to decay, deterioration, and structural defects.
- B. The exterior features of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant feature), or any type of outdoor advertising sign either designated as a Historic Landmark or found to be a contributing resource to the Historic Overlay District shall be preserved by the property owner against decay and deterioration and kept free from structural defects. For purposes of this section, the term "property owner" shall include such other person or persons who may have interest, legal possession, custody, and/or control of the property
- C. Only Historic Landmarks and contributing resources to Historic Overlay Districts shall be governed by this section.
- D. Only the Raleigh Historic Development Commission may file a petition alleging that Demolition by Neglect is occurring to a contributing Historic Resource.
- E. Petitions alleging Demolition by Neglect shall be filed and considered in accordance with the provisions of this section.
- F. Nothing contained within this section shall diminish the City's power to declare an unsafe building or a violation of the minimum housing code.

### **Sec. 11.8.2. Petition and Action**

#### **A. Filing of Petition**

1. Petitions charging that a structure is undergoing demolition by neglect shall be filed with the Planning and Development Officer.
2. The Historic Development Commission may file a petition on its own initiative.
3. Any official, commission, or department of the City of Raleigh; any state agency; or any local or state historical, preservation, neighborhood, or business association may request in writing to the Historic Development Commission that it make a preliminary investigation of a structure to determine whether a basis exists for a determination of demolition by neglect.
4. The Historic Development Commission shall complete an investigation and notify the requestor in writing within sixty (60) days the results of its preliminary investigation. The commission is under no obligation to file a petition on any structure. Should the commission determine that a petition is warranted, the commission shall prepare and file such petition within ninety (90) days of its notification to the requestor.
5. Petitions shall be filed in a format determined by the Historic Development Commission to clearly describe and illustrate the specific defects and citing in each instance a specific standard or standards (as outlined in Sec. [11.8.5.A.](#)) being

violated.

6. A petition alleging demolition by neglect may not be filed for the same property more frequently than once every two (2) years.

#### **B. Methods of Service**

1. Complaints, notices, or orders issued by the Director shall be served upon property owners either personally or by registered or certified mail.
2. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Director in the exercise of reasonable diligence, and the Director shall make an affidavit to that effect stating the steps taken to determine and locate the property owners, then the serving of such complaint, notice, or order may be made by publishing the same once each week for two successive weeks in a newspaper generally circulated within the City. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

#### **C. Hearing on Petition**

1. Whenever a petition is filed with the Planning and Development Officer charging that a structure is undergoing demolition by neglect, the Director shall make a preliminary investigation of the charges within 21 days of the filing of the petition.
2. If after preliminary investigation the Director determines that the charges in the aggregate do not rise to the applicability of Sec. 11.8.1.A. and Sec. 11.8.1.B., the Director shall provide written notification to the Historic Development Commission outlining in general terms the reasons for not applying the provisions of this section. The petition shall be returned to the Historic Development Commission.
3. If the investigation discloses a basis for such charges, within 14 additional days the Director shall issue and cause to be served upon the property owners, as may be determined by reasonable diligence, a complaint stating the charges in that respect, including a copy of the petition and this section of the code, and containing a notice that a hearing will be held before the Director at a place fixed not less than 30 nor more than 45 days after the serving of such complaint; that the property owners shall be given a right to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Director. The Historic Development Commission shall also be given notice of the hearing.
4. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the property owner wishes to make a claim of undue economic hardship.

#### **D. Action on Petition**

1. If after notice and hearing the Director determines that the structure is not undergoing demolition by neglect according to the applicability of Sec. 11.8.1.A. and Sec. 11.8.1.B. as judged by the standards of Sec. 11.8.5.A., the Director shall within 30 days of the hearing state in writing the findings of fact for not applying the provisions of this section. The written findings and conclusion shall be sent to the property owners and the Historic Development Commission. The petition shall be returned to the Historic Development Commission.
2. If after notice and hearing the Director determines that the structure is undergoing demolition by neglect because it is deteriorating, or if its condition is

contributing to deterioration, according to the applicability of Sec. 11.8.1.A. and Sec. 11.8.1.B. as judged by the standards of Sec. 11.8.5.A., the Director shall within 30 days of the hearing state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the property owners an order to repair within a reasonable time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. A copy of the order shall also be sent to the Historic Development Commission.

3. In the event that the property owners wish to make a claim of undue economic hardship, the Director's order shall be stayed until after the Hardship Review Panel's determination in accordance with the procedures of Sec. 11.8.3, except as provided in Sec. 11.8.1.F.

### Sec. 11.8.3. **Safeguards from Undue Economic Hardship**

#### A. **Claim of Undue Economic Hardship**

1. When the property owners believe that they will be unable to obtain a reasonable return on or a reasonable beneficial use from the property owing to the effects of this section, written notice of intent to file a claim of Undue Economic Hardship must be sent to the Planning and Development Officer postmarked within ten days following the hearing on the petition, unless oral notice of intent is made to the Planning and Development Officer during the hearing. The Planning and Development Officer shall notify the Historic Development Commission within three days following receipt of a written notice of intent.
2. The Economic Documentation outlined in Sec. 11.8.3.C.1.a. through r. shall be provided by the claimant to the Planning and Development Officer within 45 days following the hearing on the petition for transmittal to the Hardship Review Panel.
3. Under this section, the claimant for economic hardship and the Planning and Development Officer, the Historic Development Commission, the Hardship Review Panel, and any interested party as identified in Sec. 11.8.2.A.3. shall consult in good faith in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts shall be documented by the claimant and presented at the hearings described in Sec. 11.8.3.B.5.

#### B. **Hardship Review Panel**

1. A Hardship Review Panel shall be established to analyze documentation submitted in support of claims of undue economic hardship. The panel shall prepare a report of its determination whether the evidence supports a conclusion that the property owners will be unable to obtain a reasonable return on or a reasonable beneficial use from the property owing to the effects of this section.
2. The Planning and Development Officer shall coordinate the selection of an ad hoc review panel. The panel shall be comprised of real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation.
3. The panel shall consist of three persons. Two of the persons shall be selected within 30 days of the hearing on the petition – one by the Historic Development Commission and one by the claimant. The third person shall be selected by the first two appointees. **The City and claimant shall bear the cost of their respective selectees, and shall split the cost of the third person.** If the first two appointees cannot agree on a third person within 45 days of the date of the hearing on the petition, the third appointee shall be selected by the Planning and Development

Officer within five days after the expiration of the 45-day period. Members of the review panel may not be:

- a. A person with financial interest in the property;
  - b. An employee of or paid consultant to the claimant, the City, or the Historic Development Commission.
  - c. A person that has generated or been involved with any of the economic documentation outlined in Sec. [11.8.3.C.](#)
4. The Planning and Development Officer shall provide the Hardship Review Panel with the Economic Documentation provided by the claimant within five days of the panel's formation or when the documentation is received, whichever occurs later.
  5. Within 90 days of the hearing on the petition, the Hardship Review Panel shall review the Economic Documentation, hold a hardship hearing, and forward its findings and determination to the Planning and Development Officer.
    - a. The Planning and Development Officer shall provide notice that a hardship hearing will be held before the panel at a place fixed not less than 30 nor more than 45 days after the panel is formed; that the property owners shall be given a right to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Hardship Review Panel. The Historic Development Commission shall also be given notice of the hearing.
    - b. The panel shall hold its initial meeting to review the claimant's submitted Economic Documentation within ten days of when the panel is formed. The panel may at any time request any additional information as outlined in Sec. [11.8.3.C.2. through 4.](#)
    - c. The purpose of the hardship hearing is to review the claimant's submitted Economic Documentation, receive additional evidence concerning the claim of undue economic hardship, and to ascertain whether additional economic documentation is required.
    - d. Following the Hardship Review Panel's hearing on the claim, the panel shall consider all information received and cause to be made a determination of undue or no undue economic hardship based upon the standards outlined in Sec. [11.8.5.B.](#) The panel shall prepare a written report of its determination that shall include findings of fact for such determination.
    - e. **If in the panel's opinion a hardship exists, the panel's report shall establish a monetary value of capital expenditure on the property that the panel believes would yield a return on the investment without economic hardship. If the panel believes the property cannot support any capital expenditure, it shall so state. The panel may also offer recommendations for relief of the economic hardship.**
  6. The determination of the Hardship Review Panel shall be final, subject to appeal as noted in Sec. [11.8.4.B.](#)

#### C. Economic Documentation

1. When a claim of undue economic hardship is made owing to the effects of this article, the property owners must provide evidence describing the circumstances

of hardship. The minimum evidence provided by the property owners shall include for all property:

- a. The property owner's knowledge of the landmark or historic overlay designation at the time of acquisition, or whether the property was designated subsequent to acquisition;
- b. Form of ownership or operation of the property (sole proprietorship, for-profit corporation or non-profit corporation, limited partnership, joint venture, etc.) or legal possession, custody, and control;
- c. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance, and any terms of financing between buyer and seller;
- d. The annual gross and net income, if any, from the property for the previous three years;
- e. Itemized operating and maintenance expenses for the previous three years, including proof that adequate and competent management procedures were followed;
- f. Past capital expenditures during ownership of current owner;
- g. Depreciation deduction and annual cash flow before and after debt service, if any, for the previous three years;
- h. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three years;
- i. Real estate taxes for the previous three years and assessed value of the property according to the two most recent Wake County assessed valuations;
- j. All appraisals obtained within the previous three years by the owner or applicant in connection with the purchase, financing or ownership of the property;
- k. Any state or federal income tax returns on or relating to the property for the previous three years.
- l. Any listing of the property for sale or lease within the previous three years, price asked and any offers received, the name of the any real estate broker or firm engaged to sell or lease the property, and any advertisements placed for the sale or rent of the property.
- m. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
- n. An estimate of the cost of the required construction, alteration, repair, demolition, or removal required by the order;
- o. The estimated market value of the property in its current condition and such value after completion of the required construction, alteration, repair, or removals;
- p. A report from an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
- q. An analysis of common costs expended in both rehabilitation and comparable new construction immaterial to which type of project is undertaken.

- r. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- 2. The review panel may receive and consider studies and economic analyses from other city agencies and from private organizations relating to the property in question.
- 3. The review panel may require that the property owners furnish such additional information that is relevant to its determination of undue economic hardship. The review panel may request the Planning and Development Officer to furnish additional information as it believes is relevant. The review panel shall also state which forms of financial proof it deems relevant and necessary to a particular case.
- 4. In the event that any of the required information is not reasonably available to the property owners or the City and cannot be obtained by the owner or the City, the owner or City shall describe the reasons why such information cannot be obtained.

#### **D. Action on Hardship Review Panel's Determination**

- 1. The Planning and Development Officer shall provide a copy of the Hardship Panel's report to the property owner and to the Historic Development Commission.
- 2. In the event of a determination of no undue economic hardship, the Planning and Development Officer shall cause to be re-issued the stayed order for such property to be repaired within the time specified.
- 3. In the event of a determination that undue economic hardship would result from an order to repair, the Historic Development Commission shall within 60 days of its receipt of the report prepare a Plan for Relief of Economic Hardship.
- 4. Should the Historic Development Commission fail to act within 60 days of its receipt of the report, the Planning and Development Officer shall rescind the order for repair and return the petition to the Historic Development Commission.

#### **E. Plan for Relief of Economic Hardship**

- 1. In the event of a determination of undue economic hardship, the Historic Development Commission shall develop a plan to relieve the economic hardship. This plan may include, but is not limited to,
  - a. **Capital expenditure by the property owner,**
  - a.b. Property tax relief as may be allowed under North Carolina law,
  - b.c. Loans or grants from the City, the County, or other public, private, or nonprofit sources,
  - c.d. Acquisition by purchase or eminent domain,
  - d.e. Building code modifications,
  - e.f. Changes in applicable zoning regulations, or
  - f.g. Relaxation of the provisions of this section sufficient to mitigate the undue economic hardship.
- 2. The Commission shall give precedence to recommendations for relief of hardship contained in the report of the Hardship Review Panel, if any; the plan should include the Commission's rationale for not incorporating any Panel recommendations into the Commission's plan. The plan should also include a statement documenting good faith consultation as outlined in Sec. **11.8.3.A.3.**
- 3. **The Commission's plan shall utilize the Hardship Review Panel's estimation of monetary value of capital expenditure outlined in Sec. 11.8.3.B.5.e. (if any) as a budget figure to recommend prioritized repairs that shall to the greatest extent**

**possible stabilize the effects of deterioration upon the property.**

**3.4.** The Commission shall report its plan to the Planning and Development Officer. The Planning and Development Officer shall provide notice that a hearing will be held before the Director at a place fixed not less than ten nor more than 25 days after the report is received; that the property owners, the Historic Development Commission, and the Hardship Review Panel shall be given a right to give testimony; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Director. The Historic Development Commission and Hardship Review Panel shall also be given notice of the hearing.

**4.5.** Following the hearing, Planning and Development Officer shall either approve the Plan or refer it to the Historic Development Commission for amendment. Referrals for amendment shall specify items to be amended. The amended report shall be returned to the Planning and Development Officer by the Historic Development Commission within 15 days. Upon receipt of the approved or amended Plan, the Planning and Development Officer shall cause to be re-issued the stayed order for such property to be repaired within the time specified, and according to the provisions of the approved plan.

#### **Sec. 11.8.4. Appeals**

##### **A. Determination of Demolition by Neglect**

Determinations made by the Planning and Development Officer may be appealed to the Board of Adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Adjustment within ten days following receipt of the order for repair of the property. Appeals shall be in the nature of certiorari.

##### **B. Determination of Undue Economic Hardship**

Determinations made by the Hardship Review Panel and the Plan for Relief of Economic Hardship prepared by the Historic Development Commission may be appealed to the Board of Adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Adjustment within ten days following receipt of the determination or the order for repair of the property. Appeals shall be in the nature of certiorari.

#### **Sec. 11.8.5. Standards**

##### **A. Determination of Demolition by Neglect**

The property owners shall, upon written request by the City, repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to any of the following defects:

1. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
2. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
3. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
4. Deterioration or crumbling of exterior plasters or mortars.
5. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
6. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other

- protective covering.
7. Rotting, holes, and other forms of decay.
  8. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
  9. Heaving, subsidence, or cracking of sidewalks, steps, or pathways.
  10. Deterioration of fences, gates, and accessory structures.
  11. Deterioration that has a detrimental effect upon the special character of district as a whole or the unique attributes and character of the Historic Landmark.
  12. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

**B. Determination of Undue Economic Hardship**

1. The determination of undue economic hardship is based solely on the characteristics of the property, independent of the owner or ownership.
2. When a claim of undue economic hardship is made, the burden of proof is upon the owner and/or parties in interest to demonstrate that:
  - a. The hardship is not of their own making; and
  - b. The property is incapable of providing a reasonable return on investment, regardless of whether that return represents the most profitable return possible, or the property is incapable of providing a reasonably beneficial use; and
  - c. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return or beneficial use; and
  - d. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.